

GODWIN

ROMAN
HISTORY

LONDON

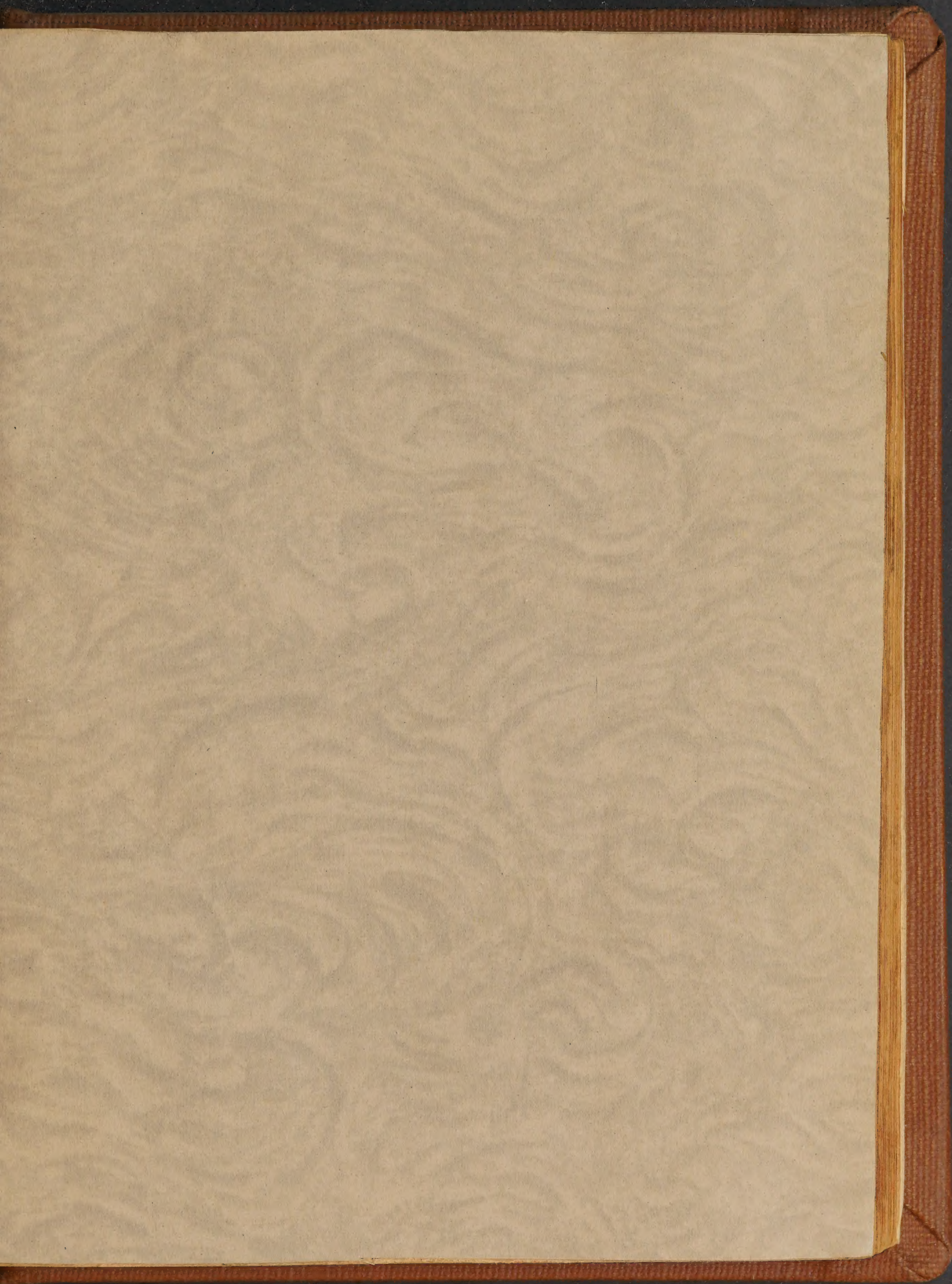
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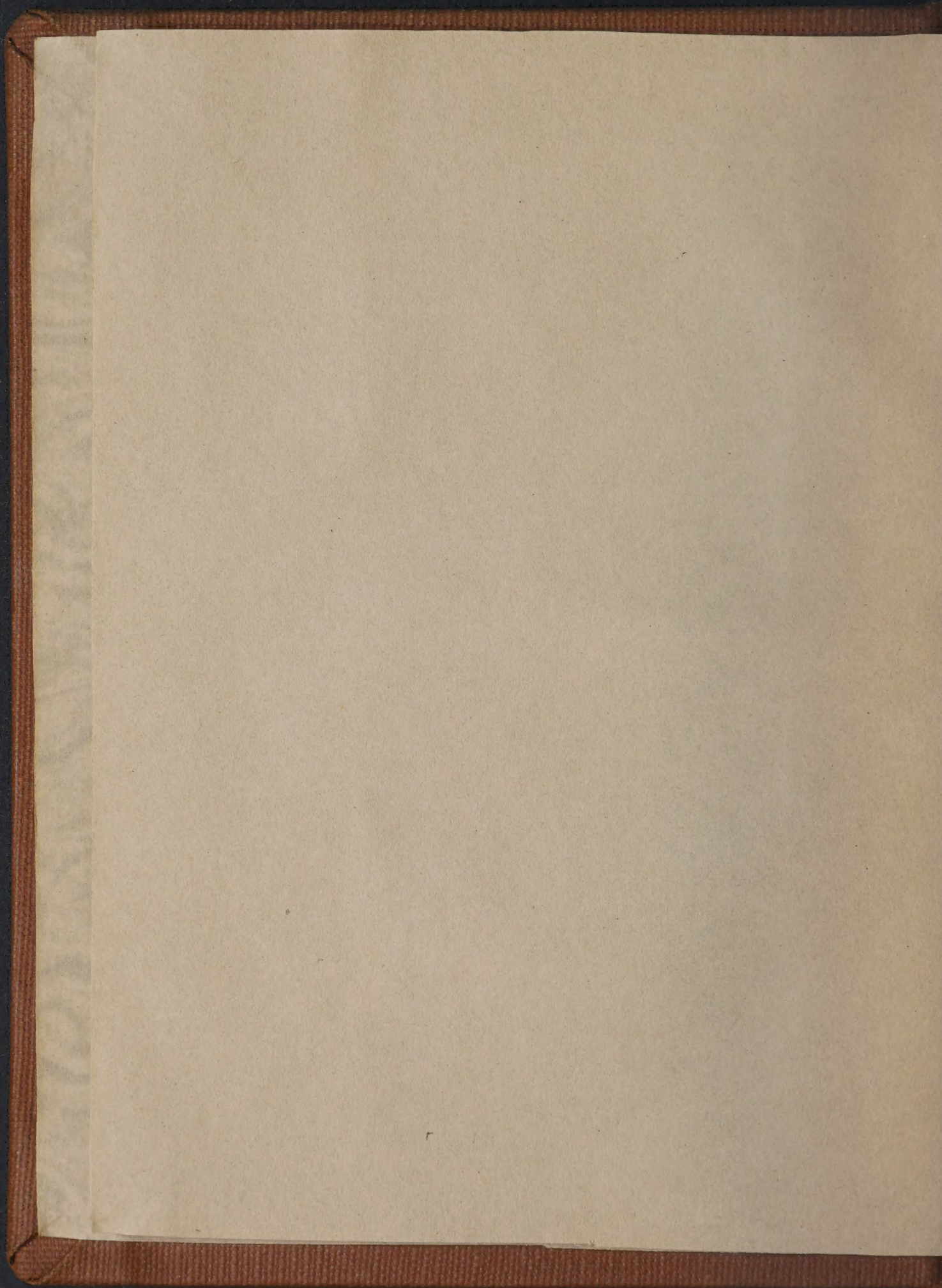


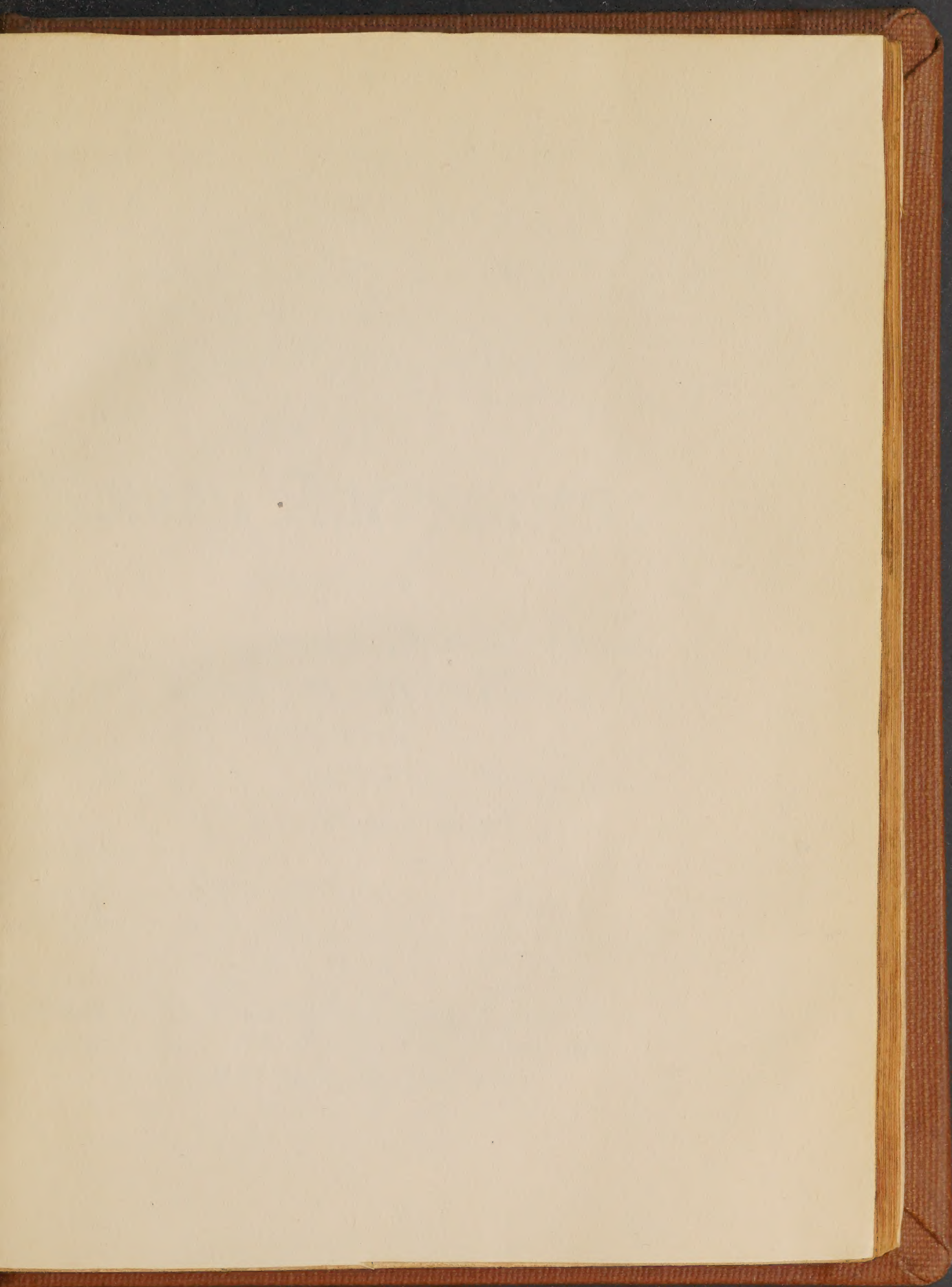


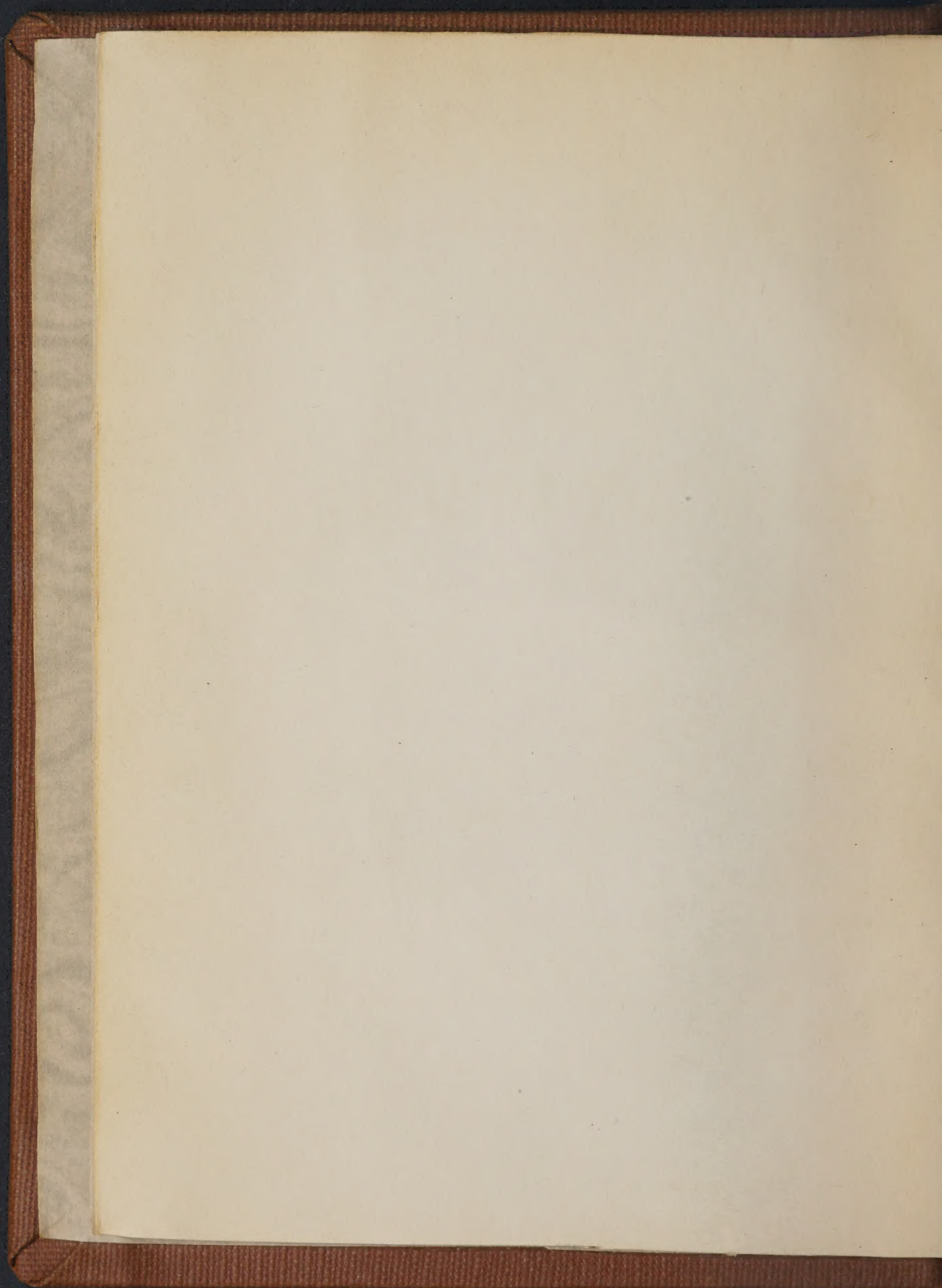


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ROMANÆ
HISTORIÆ
ANTHOLOGIA
RECOGNITA & AUCTA.

An English Exposition
OF THE

Roman Antiquities:

Wherein many

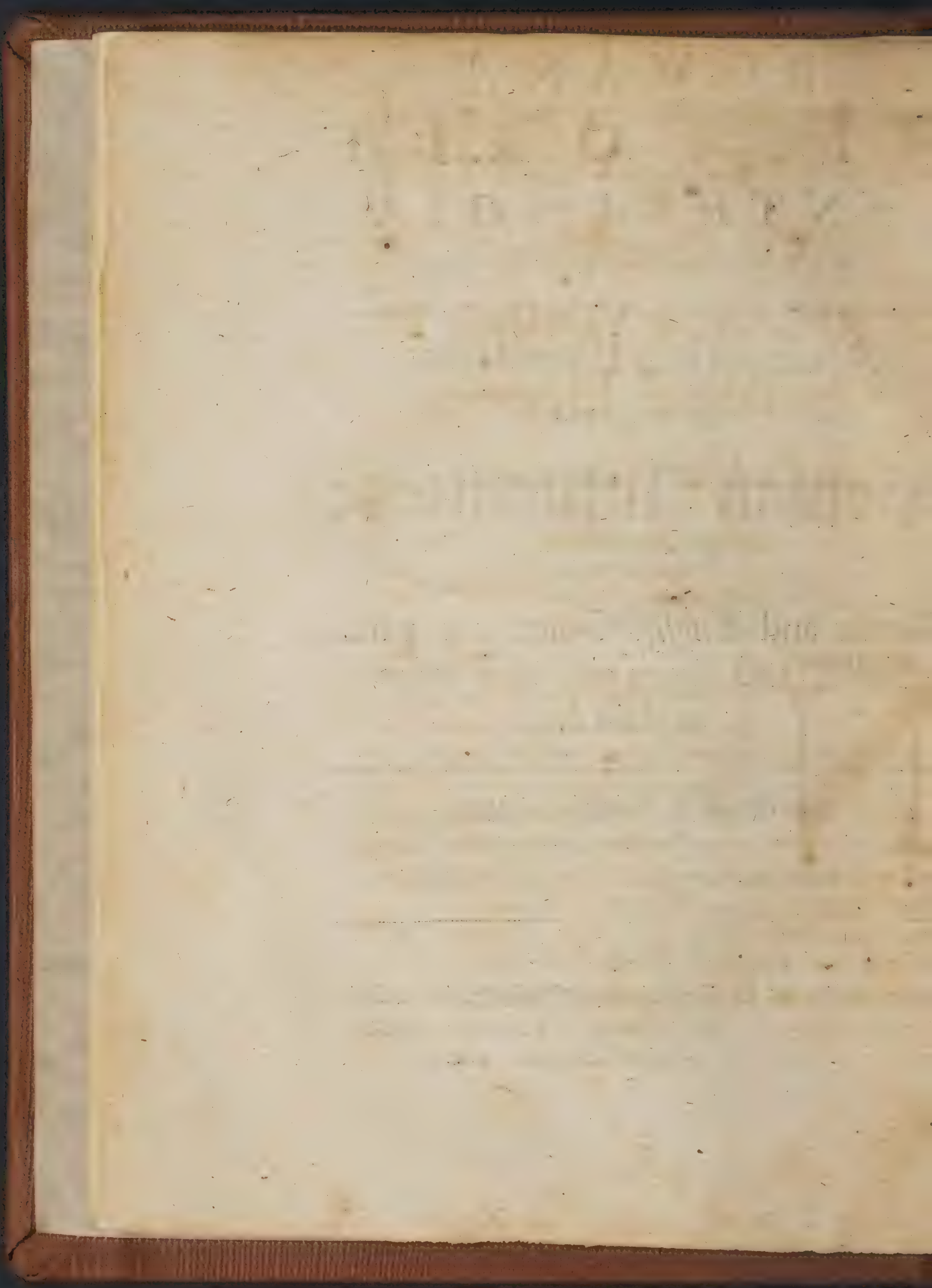
Roman and English Offices are paral-
lel'd, and divers obscure Phrases
explain'd.

Thomas Dodding
For the use of Abingdon School.

Revised and Corrected. The 14th Edition.

L O N D O N:

Printed by J. D. for Richard Chiswell, in St. Paul's
Church-Yard, M. Wotton in Fleetstreet, and
G. Connyers without Ludgate. 1685.





Viro Colendissimo

D. JOHANNI YOUNG, SS.

Theologiæ Doctori,

& Ecclesiæ *Wintoniensis*

Decano Ornatissimo.

Εὐδαίμονέστατα διόγειν.

Vir Ornatissime,

NON liberi quam libri pluribus exponi periculis solent, cum primum prodeant in lucem, utrisque pariter opus est tutelari aliquo numine obstetricante. Hoc olim sensit anthologia hæc nostra primum edita: idem sentit eadem in hodierna duarum sectionum, & capitalorum aliquot superfætatione. Nacta igitur secundas suas cogitationes te ambit patronum, qui facem aliquam mihi in his antiquitatibus obambulantì prætulisti, & quem multum fuisse in studiis meis promoven-

A 2

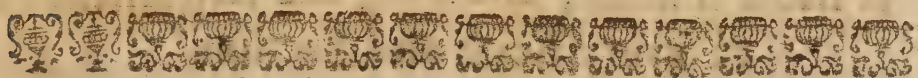
dis,

dis, palam, & sub dio prædico, videbis me aliquoties alium à doctissimis viris, & ab illorum sententiis alienum: Veritate enim præponderante, nullus apud me Plato, nullus erit Aristoteles, (nolo ego istiusmodi insaniam insanire, utcumque splendidam & autoritativam:) Caterum tacitus hoc facio, & apud me, citra omnem velitationis pulverem, rara admodum quovis protracto in arenam, ne videar ex illorum numero, qui ex nuda pugna cum adversario aliquo eximio commissa, gloriolæ nescio quos fumos sibi pollicentur. Hæc scribendi ratio si tibi placeat, alias non moror, quibus si simplex veritas non arriserit, cum magnis nominibus de viare per me licebit. Vale, & meas Musas, ut soleas, ama: illæ, quod jam faciunt, te colent semper, & omni obsequio prosequuntur. Datum Abingdoniæ 14 Calend. Decemb. Anno *χρυσωτίας*, 1622.

Dignitati tuæ

multiplici nexu Mancipatus;

THO. GODWYN.



Benevolo Lectori.

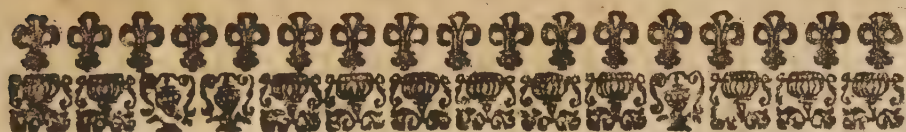
Εὐαγγέλιον, Εὐαγγέλιον.

Miraris forsan & redarguis, quod nondum desistem ab his elementaribus; quasi vita mihi vitalis foret, in his minutiis integram meam ætatem eludere, & votum unicum in his præviis studiis senium contrahere. Qui sic sentis, nec me satis noris: nec ludi literarii (pone lenocinium nominis, moletrinae dices,) iniquas leges, aut miseras quotidianas & omnigenas. Sentio ego me in pistrinum damnatum, & cogita tu hanc Anthologiam è pistrino prodeuntem. Si minus placeat, illud dabis puerorum circumstrepentium susurris, inter quos nata est: Si placeat, illud debes puerorum crebris interrogatiunculis, quarum enodationes, me vel invitum indes reducant ad hæc studia, quæ alias jamdudum jussissem suas sibi res habere. Sic me amet Theologia, sacratior mihi pagina in votis, cum hæc in manibus, ludo cogente. Interim te monitum velim, quæ accessere; non vulgaria, aut obvia, nec quæ vulgus hominum, aut docuit aut didicit.

Vale.

A short TABLE, shewing the Argument of every Book and Section.

1. Of the Ro- man City. Sect.	{ 1. Of the chief parts thereof. 2. Of the general Divisions of the Ro- man People.
2 Of the Ro- man Reli- gion. Sect.	{ 1. Of certain general Divisions of their Gods. 2. Of the Roman Priests with some par- ticular Gods; together with their Rites in Marriages and Burials. 3. Of the Roman Games, which endeth with their manner of taking meat.
Lib. 3. Of the State Political. Sect.	{ 1. Of their Assemblies called Comitia; which Section is begun with the Ro- man Year; concluded with two Chap- ters of the Roman Garments. 2. Of their Civil Magistrates. 3. Of their Civil Punishments. 4. Of all those Laws which I have obser- ved to be touched in Tully's Orations.
4 Of the Art Military, as it was pra- ctised by the Romans. Cap.	{ 1. Of their manner observed in establish- ing their Leagues. 2. Of the Roman Legion, and the parts thereof. 3. Of the manner of Besieging a City. 4. Of the Punishments towards their Enemies Captivated. 5. Of Punishments towards the Roman Souldiers offending. 6. Of certain Rewards, after the perfor- mance of any Noble Exploits.



THE
ROMAN
ANTIQUITIES
Expounded in *ENGLISH*.

LIB. I. SECT. I.

Of the Chief Parts of the City.

C A P. I.

De modo condendarum, delendarumque Urbium.

BEfore we handle the Description of the particular places in the Roman City, it will not be amiss to premise somewhat concerning the antient manner of building and raising Cities. In the Building of Cities, the Founders thereof did usually consult with their Gods in their *Augural* observations; and * this course was observed by *Romulus* himself, * *M. Tullius* in the first Foundation of *Rome*: After their *Augural* observations, they marked out the place where the Wall of the City should be built, by plowing up the ground : and
because:

b M. Cato in
fragm.

because they left that place of ground unplowed, lightly lifting the plow over it, where they appointed the Gate of the City; thence à portando, from carrying and lifting the plough they called the Gate *Ponta*. This custom is fully described by b Cato, *Captato augurio, qui urbem novam condebat, tauro & vaccâ arabat: ubi arâset, murum faciebat; ubi portam volebat esse, aratrum tollebat, & portam vocabat.* Virgil also alludeth unto it,

Interea Aeneas urbem designat aratro.

The manner hereof was, that he who held the plough, did cast up the skirt of his gown on the right shoulder, and girt himself about; either because this was the usual habit of such who performed holy Rites, (in the number of which, this present action was reputed;) or that he might the more readily address himself to the business; or lastly, that he might symbolically by that pacifical habit intimate, that the flourishing estate of the City, is not so much preserved by war as by peace. Hence Ovid. l. 4. *Fastorum.*

*Ipse tenens stivam, designat moenia sulco,
Alba jugum niveo cum bove vacca tulit.*

c Coel. Rhod.
ant. l. 26. c. 5.

The c like custom was used also in the razing or demolishing of Cities, when they had been vanquished by the enemies: which observation giveth light to that of Horace, *Lib. Od. I. 16.*

*Urbibus ultima
Stetere cauae, cum perirent
Funditus, imprimeretque muris
Hostile aratrum exercitus insolens.*

C A P. 2.

De Monte Palatine.

d Vid. Ant.
Constan. in
Ovid. Fast. l. I.

Touching the name of *Rome*, from what occasion the City should be so denominated, divers Authors conceit diversly. d Some are of opinion, that this City was built long before *Aeneas* came out of *Troy*, and was then called

called by the Latines *Valentia*, which was a Name of Strength; whence *Evander* coming into *Italy*, called it *Roma*, from ῥῶμη *Robur*. Others say, it was so called from *Ascanius* his Daughter whose Name was *Roma*. But it is agreed upon by most Writers, that the Founders were *Romulus* and *Remus*; and from *Romulus* it was called *Roma*, not *Romula*, because the diminutive *Romula*, might ominate less Prosperity thereunto. *e* Some say, that they built it in form of a Quadrangle upon one only Hill, called *Mons Palatinus*. *f* Others say, that *Fabius* left *Rome* as it was first built, with the Fields thereof, painted in the form of a Bow, the River *Tiber* being the String thereof. Upon this *Palatine* Hill, was always the Seat of the *Roman* Empire, which from the Hill took the denomination of a *Palace*: and hence all *g* stately Buildings which we call *Palaces*, took their Name *Palatia*. This Hill had its first Appellation *h* *Balatinus* à *Baland*, from the bellowing of Cattel pasturing there in former times; and afterwards the first Letter being changed, it was called *Palatinus*, by the figure ἀλλιστινον. *Virgil* seemeth to be of opinion, that the Hill was called *Palatinus*, by *Evander*, in remembrance of his Grand-Father, whose Name was *Pallas*, according to that,

e Rosin. ant.
l. 1. c. 2.
f Sig. de jur.
Rom. l. 1. c. 2.

g Rosin. ant.
l. 1. c. 4.
h Vid. Serv.
in Æn. l. 8.

— *Posuere in montibus Urbem,*
Pallantis proavi de nomine Palantaum. Virg. Æn. l. 8.

In process of time six other Hills by several Kings of *Rome* were added; whereby the City, and the *Pomerium*, that is, the Territories of the City were enlarged; and *Rome* called *Urbs septicollis*, i. e. the City upon seven Hills.

Sed quæ de septem totum circumspicit Orbem
Montibus, Imperii Roma deumq; locus. Ovid. Trist.
lib. 1. Eleg. 4.

Upon this *Palatine* Hill also stood the *Asylum*, or Sanctuary of Refuge, which *Romulus* opened in Imitation of *Cadmus*, who at the building of *Thebes* was said to have opened a Sanctuary of Refuge, whither whatsoever Malefactor

i Alex. Gen.
dier. l. 3. c. 20.
ubi plura lecti-
one digna de
Asylis.

lefactor could escape, were he bond or free, he was not to be punished. It was much like unto a Custom of the People in the City of *Croton*, who flying unto the Altars of their Gods, obtained the forgiveness of Faults not voluntarily committed. Whence these two Phrases are expounded alike, *Ad te tanquam ad Asylum*, and, *Ad te tanquam ad Aram confugimus*, i. e. we flee unto thee as our only Refuge.

C A P. 3.

De Monte Capitolino.

1.
k RoGn. ant.
l. i. c. 5.
2.
l Plutar. in
Romulo.

3.
n Dion. Hali-
car. l. 4.
n Lipf. de
magnitud.
Rom. c. 5.

THis Hill was famous for three Names : it was called *Capitolium*, *Mons Tarpeius*, and *Mons Saturni*. It was named *Saturn's Hill* k from the Heathenish God *Saturn*, who vouchsafed to undertake the Protection of that Place. It was named the *Terpeian Hill*, l from *Tarpeia* one of the Vestal Nuns, Daughter to the chief Keeper of the Capitol, (this Hill being the Castle of Defence for the whole Town.) For this *Tarpeia* betrayed the Capitol into the Enemies Hands, bargaining to have the Golden Bracelets upon her Enemies left Hands, for this her Treason. Now the Enemies when they were admitted in, did cast not their Bracelets alone, but their Bucklers also upon her, through the weight whereof she was pressed to Death : upon which occasion the whole Hill was afterwards called, *The Tarpeian Mount* ; but more principally a certain Rock of that Hill, called *Tarpeia rupes*, from whence Malefactors were sundry times tumbled head-long. The same was likewise called the *Capitol*, because when the Foundation of a certain Temple, built in the Honour of *Jupiter*, was laid, a Mans Head, full, fresh and lively, as if it had been lately buried, m yea, hot Blood issuing out of it, was found there. n *Arnobius* saith, that the Name of this Man, being alive, was *Tolus*, and hence from *Caput* and *Tolus*, the whole Hill was called *Capitolium*.

C A P.

C A P. 4.

De Colle Quirinali.

THIS Hill being in former time called *Agenalis*, then began to be called *Quirinalis*, when certain *Sabines*, called in Latin *Curetes*, came and inhabited there, (truce being made between the *Romans* and the *Sabines* :) though *Rome* would therefore have it named *Quirinalis*, because there was a Temple erected in the Honour of *Romulus*, called also *Quirinus*. It was called in the time of the Emperors, *Mons Caballus*, that is, the Horse-hill, taking its denomination from two Marble Statues of *Alexander* taming his Horse *Bucephalus*: which Statues *Constantine* the Emperor brought to *Rome*, and placed them in the midst of certain Baths, which he made upon this Hill. There do appear in this Hill three risings, or hillocks; the one being called *Salutaris*, the other *Martialis*, and the third *Latiaris*. All this may be Collected out of *o Ro-* *o Ant. Rom.*
sius. *l. 2. c. 6.*

C A P. 5.

De Monte Celio.

THIS Hill hath his name from a certain *p* Captain of *p Alex. Gen.*
Hetruria, which assisted *Romulus* against the *Sa-* *dier. l. 1. c. 17.*
bines. On this Hill, King *Tullus Hostilius* erected stately Edifices, which for a time serv'd as his Palace: but afterward they became the chief Council-house, whither *Senators* assembled themselves, for the determining of State-matters: and because this *Curia* did far exceed all others, therefore Authors many times use this word *q Curia q Alex. Gen.*
simply, without any adjunction, to signifie *Curiam Ho-* *dier. l. 1. c. 16.*
stilliam, as if there were no other. It much resembleth our Privy-Council-Chamber, in respect that none might sit there but only *Senators*; whereas in the Court-House which *Pompey* Built (being therefore called *Curia Pom-*
paea)

^r Rosin. ant. *peia*) ^r other City-Magistrates were admitted amongst the *Senators*: and in *Curia Julia*, *id est*, the Court-house which *Julius* made, were examined ^f Foreign matters, as Embassages: but in *Curia Hostilia* domestical matters only were treated of, and that only by the *Senators*. ^t At this present time, this Hill is beautified with many Christian Churches, as the Churches of St. Stephen, St. Paul, and St. John, our Saviours Hospital, &c. ^u It was also called *Mons Querculanus*, from the abundance of Oaks growing there.

^{l. 7. c. 5.}
^f Rosin. *ibid.*

^r Munst. in sua
Cosmog. l. 2.
c. 9.

^u Alex. Gen.
dier. l. 6. c. 11.

CAP. 6.

De Monte Esquilino.

^x Rosin. ant.
l. 1. c. 8.

THIS Hill was so named, *quasi x excubinus*, *ab excubiis*, *id est*, from the Night-watching which *Romulus* did undertake upon it, somewhat distrusting the fidelity of the *Sabines*, in the beginning of their League. In this Hill there were three Hillocks, named *Cispinus*, *Opinus*, and *Septimius*.

CAP. 7.

De Monte Aventino.

^a Alex. Gen.
dier. l. 6. c. 11.

THE *Aventine Mount*, took its name *a* from *Aventinus*, a certain King of *Albanum*, which was there Buried. Upon this Hill stood *Hercules* his Altar, and certain Temples consecrated to *Juno*, *Diana*, *Minerva*, *Lucina*, and *Murcia*, *id est*, *Venus*: whence the Hill hath sometimes been called *Diana* her Hill, and *Mons Murcius*. Upon *b* this Mount, *Remus* would have built *Rome*, and therefore it was called *Remonius Mons*: but since it hath been called *Mons Rignarius*, as it appeareth by *Plutarch* in the same place. It had moreover the name of the *Holy Mount*, being called in Latin *Mons Sacer*.

^b Plutarch. in
Romulo.

C A P. 8.

De Monte Viminali.

BEcause of the abundance of wicker twigs which did grow upon this Hill, it was called *Mons Viminalis*, *vimen* signifying a Twig or Osier. I am not Ignorant that some would have this Hill to be named *Viminalis*, from *Jupiter Vimeus*; whereas *Jupiter* himself was named *Vimeus* from this Hill, because he had here many Altars erected in the Honour of him. Both this Hill and *Jupiter*, were called *Fagutales*, from *Sylva fagea*, *id est*, a cops of Beech-trees, which did grow thereupon. *Vid. Rosin. Antiq. Lib. 1. Cap. 9.*

C A P. 9.

De tribus Collibus adjectis.

THree c other Hills there were, which in process of time were added unto the City; which partly be- c *Rosin. ant. L. 1. c. 11.*
cause they were not included within the *Pomarium* so soon as the other, but chiefly because they were not of such note, therefore *Rome* retained the name *Septicollis*. The first of those Hills was called *Collis Hortulorum*, *i. e.* the Hill of Gardens; so termed, because of the many Gardens near adjoyning. d Here was the *Cirque*, or the d *Bar. Lat. in Verrin. Orac. 7*
shew-place of the Strumpet *Flora*, which made the people of *Rome* heir to those Goods which she had gotten by prostituting her Body to young Gentlemen, leaving also a certain sum of Money to procure a Celebration of her Birth-day, which because of her Infamy, the people shaming to do, they feigned her to be the Goddess of Flowers, and that she must be first appeased by Sports and Plays performed in the Honour of her, before the Trees and Fruits of the Earth would prosper: e and that they e *Laſtant. de fal. relig. l. 1. c. 20.*
might gain the better Credit unto this their Fable, they add further, that she was once called *Chloris*, and was Married

f Munst. in sua
Cosmog. l. 2.
c. 8.

ried unto *Zephyrus*, from whom by way of Dowry she received power over the flowers. The second was called *Fanicolus*, from *Janus* that two-faced God : who, as Writers testifie, was there buried. It did lie beyond the River *Tiber*, and hath now changed its name, being called from the yellow Sands, *Mons Aureus*, and through negligence of the Printer, *Montorious*, id est, the Golden Mountain. The third was famous for the many Divinations and Prophecies uttered upon it, and thence was it named *Vaticanus*, from *Vaticinium*, a fore-telling. f It is at this time famous for a Library in it, called *Bibliotheca Vaticana*.

C A P. 10.

De Foro Romano.

g Hubert. in
Cic. l. 3. ep.
fam. 6.

Forum hath divers acceptions : sometimes it is taken for a place of Negotiation, or Merchandising, which we call a *Market-place* : and being taken in this Sence, it hath commonly some Ajective joined with it, as *Forum boarium*, the Beast-market ; *Forum piscarium* the Fish-market ; *Olitorium-Forum*, the Herb-market : other times it is taken for any place, wheresoever the Chief Governour of a Province doth convocate his people together, there to give Judgment according to the course in Law : whence a Man is said, *Forum agere*, g when he keeps the *Affizes* ; and *Forum indicere*, when he appointeth the place where the *Affizes* shall be kept. Thirdly, it is taken for a place where Controversies in Law are judicially determined, and Orations are had unto the people. At first, of this sort were only three, *Romanum*, *Julium*, and *Augustum*, as is clearly evidenced by that of *Martial*.

Atque erit in triplici par mihi nemo foro.

Afterward the number was encreased to six distinct *Forums*. One called *Forum Julium* because it was built by *Julius Caesar*. A second was added by *Octavius Augustus*, called therefore *Augusti Forum*. The third *Forum* was founded

founded by *Domitian* the Emperour : but by reason of his sudden Death, *Nerva* had the finishing thereof. It had the Name of *Forum Transitorium*, the Transitory of *Forum*, because there was *Transitus*, i. e. a Way or Passage through it into three several Market-places. The same *Martial* called it sometimes *b Forum Palladium*, because in the middle thereof a Temple was erected in the Honour of *Minerva*. A fourth was added by the Emperour *Trajanus*, wherein was erected a stately Column or Pillar 140 Cubits high, having all the noble Exploits performed by *Trajanus* engraven in it : another was called *Salustii Forum*, because *Salust* bought it with divers Gardens adjoining, which since have been called *Horti Salustini*. The last *Forum*, which indeed was first built, and in all respects excelled the rest, was called *Forum Romanum*, and *Forum vetus*, or by way of Excellency, the *Forum*, as if there were no other *Forum* : where we must understand, that as often as *Forum* is used in this latter Sense, namely for a pleading-place, it is so used figuratively, by the Figure Synecdoche : for in truth the pleading-place, wherein Orations were had, was but one part of the *Forum Romanum*, namely, that *Chappel*, or great Building, which they called *Rostra*. *i* Round about this *Forum Romanum*, were built certain Trades-men Shops, which they termed *Taberna*, and also other stately Buildings, called *Basilica Pauli*. Here was the *Comitium*, or Hall of Justice ; the *Rostra*, *id est*, the Orators Pulpit ; *Saturn's* Sanctuary, or the common Treasure-house ; and *Castors* Temple : of all which in their order.

b Lipsus de magnitud. Rom. l. 3. c. 7.

i Hen. Sal-much. in Pan-cerol. lib. rerum deperdit. cap. de Basil. & Taber.

CAP. 11.

De Basilicis.

Basilica were upper Buildings, of great State and much Cost, being supported with *Pila*, i. e. flat-sided Pillars, and having underneath them Walks, much resembling our Cloysters, saving that the *Intercolumnia*, or Spaces between

l Sigon. de
judiciis. l. 1. c.
28.

tween the Pillars lay open unto the very Ground. That they were upper Buildings, may be collected by the Custom of many Men, which were wont to walk under these Basilical Buildings, and therefore were called *Sub-basilicani* by *Plautus*. The use of these were principally for the Judges to sit in Judgment: but in their absence it was lawful for Merchants to deal in their Businesses. Those of chief note were three, thus named, *Pauli*, *Porcia*, and *Julia*.

CAP. 12.

De Comitiiis.

l Sigon. de jud.
1. c. 7.

m Cœl. Rhod.
l. 10. c. 17.

Comitium l was a part of the *Forum Romanum*, being a great large Hall of Justice, which for long time was open at the top, having no covering; and for that reason the Assemblies were often dissolved, in rainy or unseasonable Weather. In it stood the *Tribunal*, being a place erected up on high, in form of our Pulpits, but many degrees larger, and in the midst thereof, the *Sella Curulis*, id est, the Ivory Chair, from whence the Chief Magistrate administred Justice; other Inferiour Magistrates sitting on Benches on each side, which were called *Subsellia*, because they were lower than the Tribunal. Those which sate upon these Benches had Power *cognoscere*, but not *pronunciare*; much like to our Justices at Assizes, which may examine or inform against a Malefactor, but not condemn him. Where we may observe the difference between *Comitium*, signifying such an Edifice or Building; and *Comitia*, signifying the *Roman* Assemblies: both being called à *coeundo*. This Hall was many times called by the name of *Puteol Libonis*. The reason of which name is rendred thus by m some: That in this *Comitium*, *Actius Nevius* did once with a Razor cut in two a Whetstone, and in memory thereof his Statue was erected with a Hat upon his Head: for *Puteol* properly doth signify the Cover of a Well, but in a large acception it signi-

Of the chief Parts of the City.

II

signifieth a broad-brimmed Hat, as *Caelius Rhodiginus* noteth in the same place. *n Cicero* toucheth them : *Cotem* n Cic. de di-
*illam, & novaculam defossam in Comitio, supraque impos- vinat.
tum Puteal accepimus. But why it should be called *Putial*
Libonts, is yet doubtful ; except happily *Libo* was the first
 Erector of this Statue. That it was a common Court,
 and known place of Justice, *Horace* witnesseth : *Roscius*
*orabat, sibi adesses ad puteal cras.**

CAP. 13.

De Rostris.

NExt to the *Comitium* stood the *Rostra*, a goodly fair
 Edifice, in manner of the body of a Cathedral-
 Church : In it stood an Orators Pulpit, deckt and beau-
 tified with the Stems of many Ships, which the *Romans*
 got from the People of *Antium*, in a memorable Battel
 upon the Sea : and ^{o Hubert. in} hence from those Ship-Beaks, called ^{Cic. ep. lib. 8.}
 in Latine *Rostra*, hath this place taken its Name. It may ^{ep. fam. 1.}
 be Englished, the great Oratory, or place of *Common Pleas*.

CAP. 14.

De Templo Castoris.

ANother part of the *Forum* was a Sanctuary built in
 the Honour of *Castor* and *Pollux* : the reason thereof
 was, because they appeared unto the *Romans* in the *La-*
tine War, in the likeness of two Angels sent from Hea-
 ven to lead the *Roman* Army, and to assist the *Romans*
 against the *Latines* : who being vanquished, they sudden-
 ly were departed out of the Field, none knowing how :
 and even in the same moment they appeared upon their
 sweating-Horses unto the *Roman* Citizens in the *Forum*,
 who taking them for Souldiers, demanded what News
 they brought home from the Camp ; they replied, that
 the *Romans* were Conquerors : which News being deli-
 vered, they suddenly vanished, and were seen no more.

C

Upon

p Suet. in Jul.
Cæs.

Upon this occasion did *A. Posthumius*, being at that time *Dictator*, build a Temple in that place of the *Forum* where they were seen, in honour of them both. Altho in the after-Ages, it had the Name only of *Castors* Temple. Whence arose the Jest of *Mr. Bibulus*, against his Fellow-Consul *Julius Cæsar*, saying, p it fared with him, as it did with *Pollux*, i. e. As this Temple which was erected in the honour of both the Brethren, carried the Name only of *Castors* Temple; so the great Expences in exhibiting Shews in the time of their Consulship, though they were deeper on *Bibulus* his side, yet *Cæsar* carried away all the Thanks and Credit. Infomuch, that the People being wont to subscribe the Names of both Consuls at the end of their Deeds and Charters, for a Remembrance of the Year; that Year they wrote, such a thing done, not *Bibulus* and *Cæsar*, but *Julius* and *Cæsar* being Consuls.

CAP. 15.

De Aede Saturni.

q Plutarch in
Publicola.

r Alex. Gen.
dier. l. 4. c. 13.

s Alex. Gen.
dier. l. 2. c. 2.

Saturns Sanctuary q was the Common Treasure-house, wherein the Subsidy-Money which the Commons paid unto the Treasures, called *Questores*, was to be laid up: whereof divers conjecture diversly. *Alexander Neop.* r saith, that *Saturn* found out the use of brazen Mony; and therefore this Temple might be thought the fittest place for the Treasury. *Plutarch* thinketh rather, that the making of the Treasury in that place, did allude to the Integrity of the time wherein *Saturn* reigned, being the World's Golden Age. s But the most received Opinion is, the Strength of the place, whereby it was the safer from Thieves. The Temple, by reason of the use it was put unto, was called *Ærarium*, from *Æs*, id est, Brass; which Name now is common to all Treasure-houses; for that the first Money used by the *Romans* was of that Metal, until the Year of *Rome*, 485. (as *Pliny* wit-

witnesseth, lib. 3. Cap. 33.) *q* Some are of opinion, that before the use of Brasse, they made Money of Leather: whence *Numa Pompilius* is said to have given leather Money in a dole unto the People. Touching their order observed in the Treasury, we must understand that their care in providing against sudden dangers was such, that they laid aside the twentieth part of the Receipts, which they called *Aurum vicesimarium*, *Incensimarium*, and *Cimiliar-chium*, into an inner-Chamber, or more sacred room, named in Latine *Ærarium sanctius* *s*. We may read also of a third Treasury, called *Ærarium militare*, wherein *Augustus* had appointed that the twentieth part of certain Legacies should be laid up to defray Charges in extraordinary Wars, where it lay so privileged, that it was a Capital Crime to use any of it, but in extream and desperate necessity. Notwithstanding, howsoever it was used as a Treasure-House; *t* yet divers Authors testifie that the Acts of their Senate, the Books of Records, together with such Books as were for their immeasurable bigness, called *Libri Elephantini*, wherein all the names of their Citizens were registred, and also their Military Ensigns, were contained there. *u* And from those Statute-Books called *Tabula Publicæ*, this Treasury was also called *Tabularium*, because they were laid up there.

q Alex. Gen. dier. l. 4. c. 15

r Alex. Gen. dier. l. 2. c. 2.

s Servius l. 2. Virg. Georg.

t Alex. Gen. dier. l. 2. c. 2.

u Plutarch. in suis Problemat. vid. Franc. Sylvium in Catilinar. 4.

C A P. 16.

De Campo Scelerato.

C *Ampus Sceleratus*, the field of Execution *x* lying within the City, joined to the Gate *Collatina*. It was the place where the Vestal Nuns, if they were deflowred, suffered Punishment after this manner. There *a* was made a Vault under the Earth, with a hole left open above, whereby one might go down; and within there was a little Couch with a burning Lamp, and a few Victuals, whither the defiled Votary was to be brought, through the

x Munster. in sua Cosmog.

a Plutarch. in Numa.

C 2

Mar-

Market-place in a Litter so closed up with thick leather, that her Mournings might not be heard to the moving of Pity. She being thus brought to the place of Execution, was let down by a Ladder into a hollow Cave, and the hole presently stopped. And the reason why they suffered such a kind of death, was, because they thought it not fit that she should be burnt with Fire, which kept not the sacred Fire with greater Sanctity: and it was thought unlawful to punish them by laying violent hands on them, because they had in former time served in so holy a function.

C A P. 17.

De Campo Martio.

b Rosin. ant.
l. 6. c. 11.

THE *b* *Campus Martius*, otherwise called *Tiberinas*, (because it was near the River *Tiber*) was given unto the Roman people, by *Caia Tarratia*, a Vestal Virgin; but *Tarquinius Suberbus*, the last King of Rome, did take it from the people, converting it to his own private use, insomuch that he sowed Corn there; which, when he was deposed, the Romans did cast into the River *Tiber*, judging it unfit that any Man should reap any Commodity from so holy a ground. In process of time the sheaves of Corn being stopped in a shallow ford of the River, became firm ground, and was called, *The holy Island*, or *Æsculapius his Island*; and presently after the expulsion of *Tarquinius*, this *Campus Martius* was restored unto its former use. Besides the natural pleasantness of the place it self, it was beautified with many Ornaments brought out of the *Capitol* (the *Capitol* being too full) as likewise with divers Images of well-deserving Men. Hither did the younger sort of the Romans come to exercise Chivalry, namely, the Horse-race, the Foot-race, Wrestling, Fencing, casting the Bowl, the Sledge, the Dart, using the Sling, the Bow, Vaulting, with such like; and upon this occasion it was dedicated to *Mars*, and called by *Strabo*;

The

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The Romans Great School of Defence. *c* The manner of Vaulting, was, in Riding, to leap from one Horse-back upon another; their custom being for their Horse-men in War, to lead a spare-Horse in their Hands, besides that whereon they did ride, that when the one did sweat, they leaped upon the others Back; *à desiliendo*, those Horses were called *Equa defultorii*: whence an unconstant, wavering and unsettled Mind, which *Seneca* calleth *Volaticum ingenium*, others have called *Desultorium Ingenium*. In this Field were men of best Note burned when they Died. Here were the Kings and other Magistrates at first Created. In this *d* field of *Mars*, also was a place at first railed, like a Sheep-pen, called therefore *Ovilia* or *Septa*; but afterwards it was mounted with Marble-stone, beautified with stately Walks and Galleries, and also with a Tribunal or Seat of Justice; within which Precinct the People oftentimes assembled, to give their suffrages towards the Election of Magistrates. The means of ascending up unto these *Ovilia* was not by Stairs, but by many Bridges made for that time; every Parish in the assembly of Parishes, and every Tribe or Ward in the assembly of the Tribes, and every Hundred in the assembly of Centuries, having his Bridg: whence this Proverb was occasioned *De ponte dejicendus, id est*, he is to be debarred from giving his Voice. *e* These Bridges were not made over any River, but over the dry Land: whence Men are said to be cast, *Non ut periclitarentur de vita, sed ne suffragrentur in Comitibus*.

c Coel. Rhod. l. 21. c. 29, 30.

d Servius in Bucol. Ecl. 1.

e Ioan. Saxoni- us in Orat. pro S. Roscio.

C A P. 18.

De Circo Maximo.

AMongst other places where the Romans exhibited their Plays unto the People, the most remarkable was a great Cirque, or Shew-place, called in *Latine* *Circus Maximus*. It was a large piece of Ground lying near that part of the *Aventine* Mount, where *Diana's*

f Rosin. ant.
l. 5. c. 4.

na's Temple stood. It was built by *Tarquinius Priscus*, with divers Galleries round about it, from whence the Senators and Gentlemen of the City did behold the running with great Horses at Lists, the Fire-works, Tumbling, the Baiting and Chasing of wild Beasts, &c. In former time all did stand on the Ground, being sheltered from the Rain by the help of Boards upheld with Forks, in manner of House-pentices : and this Custom continued until the aforesaid *Tarquinius* erected those Galleries, called *Fori*, making thirty distinctions of them, allotting every Ward or Company their several quarters, all the Seats being able to contain one hundred and fifty thousand parties. f Under these places were Cells or Vaults, where Women did prostitute their Bodies, and would buy stolen Goods : and for this reason *Horace* calleth it, *Fallacem circum*, i. e. the deceitful Shew-place. There was at one end of the Cirque certain Barriers, i. e. places barr'd, or rail'd in, at which place the Horses began the Race : and at the other end was the Mark, whither the Horses ran : it was called in Latine *Meta*, and the Barriers *Carceres a coercendo*. Whence we say, *a carceribus ad metam*, i. e. from the beginning to the ending.

CAP. 19.

De Theatro.

g Joach. Camerar. in orar.
pro L. Flacco.
b Serv. l. 2.
Virg. Georg.

THE *Theatre* g hath his Name from the Greek Verb *θεᾶσθαι*, i. e. to behold : because the people flocked thither, to behold Plays and Shews exhibited to them. The custom h first sprang from the Shepherds, who leading a contemplative life, were wont to compose Dialogues in Metre, and at their leisure to recite them under the trees pressed down in form of an Arbor; whence this Theatral term *σκηνή* hath been derived from *σκιά* a shadow, but afterwards learned Poets composed *Comedies* and *Tragedies*, which were publickly acted in the City upon a Stage; and though at first it was accounted infamous to frequent them, yet afterwards the Senators themselves, yea, the Emperor

Emperor, and all the Chief of Rome assembled thither.

Neither for a long continuance were there any Seats Alex. Gen. dier. l. 5. c. 19. built, but Commons and Nobles, promiscuously one with another, all stood on the Ground: infomuch that those

which stood behind, raised up places with Turfs of Earth, which gave the People occasion to call the place between those Turfs and the Scaffold, *Cavea*, i. e. a Cave or Den: yea, the People that stood there, were so called from the place. Though the Theatre be now taken only for the Stage, yet then by it was understood the whole Room

where these Plays were acted: and it had divers parts; some proper to the Actors, some to the Spectators. To the Actors, first belonged the *Proscenium*, id est, the House

whence the Players came: where they apparelled themselves; though sometimes it is taken for the Scaffold, or Stage it self. Secondly, the *Pulpitum*, id est, the Stage, or Scaffold upon which they acted: And thirdly, the *Scena*,

that is, the Partition, which was commonly made of Wood, not of Hangings. Now that they might change their Scene, according to their pleasure, they made it

Versatilem, id est, so that with Engines it might upon Servius l. 3. Virg. Georg. the sudden be turned round, and so bring the Pictures of

the other side into outward appearance: or otherwise *Ductilem*, i. e. so that by drawing aside of some Wainscot-shuttles (which before did hide the inward Painting) a

new Partition might seem to be put up: And I think, because those Shepherds did act no more at a time, than one of our Scenes; hence have we distinguished our Plays into so many parts, which we call Scenes.

The places which were proper to the Spectators, were distinguished according to their Degree and Rank; for the remotest Benches were for the Commons, and called *Popularia*; the next for the Knights and Gentlemen of Rome, and called therefore *Equestria*; the others wherein the Senators did sit, were commonly called *Orchestra*.

This may be collected out of Lipsius de amphith. c. 14. m Coel. Rhod. *Lipsius*. *m Coel. Rhod.* 10 l. 8. c. 8. *ginus* saith, that the *Orchestra* was that place joyning

to the Stage, where *Chorus* spake to the People at the end of every Act. Divers Authors are of *Coel. Rhod.* his Opinion, deriving the word *Orchestra*, from the Greek *ὀρχήστρις* to dance; but it seemeth more probable to have been a peculiar place, allotted for the Senators: *Ju. Sat. 3.*

Aequales habitus illic, similemque videbis

Orchestram & Populum — id est optimates & plebem.

n *Coel. Rhod.*
lib. 8. c. 8.

Turneb. ad-
vers. lib. 5. c. 5.

p *Hosp. de*
orig. fest.

q *Lips. de Am-*
phith. c. & 3.

r *Plin. lib. 36.*

The whole Building made for Entertainment of the Spectators, resembled a Triangle or Wedge, sharp towards the Stage, and broad behind; whence the whole was denoted by the Name of *Cuneus*: when *Cuneus* signified any particular place about the Theatre, then by it we are to understand that which formerly we called *Popularia*, the place for the meaner sort of People: *n* whence when we would point out a base and ignoble Person, *Inter cuneos residere dictitamus*. There was also another kind of Scaffold, built quite round, made as it were of two Theatres joyn'd together; it was called *Amphitheatrum*, and differ'd from the Theatre, only as the full Moon doth from the half, or a compleat Rundle from a Semi-circle; it resembled an Egg. Upon this kind of Scaffold did the Masters of Defence play their Prizes, and wild Beasts were baited. *p* In *Amphitheatro gladiatorii ludi, & conclusarum ferarum venationes exhibebantur*. The *Amphitheatre* it self, in the judgment of *Lipsius q* was termed *Cavea*, *ab interiore parte qua concava erat*; and *Arena*, because it was strewed with Gravel and Sand, that the Blood of such as were slain in the place, might not make the place too slippery for the Combatants. Hence cometh that Phrase, *In arenam descendere*, to go into the Field; and the Combatants were thence called *Arenarii*. Here we must note, that howsoever the *Amphitheatre* was strewed commonly with common and ordinary Gravel, yet sometimes in their extraordinary Shews that Gravel was covered, and as it were new coated, with Scrapings and Dust of some extraordinary Stone, to add the greater Lustre unto it: thus much *r Pliny* intimateth, *Invenere &*

alium

alium usum ejus lapidis, in ramentis quoque Circum maximum sternendi, ut si in commendatione & candor, &c. Again, sometimes the hollow Places or Dens under the *Amphitheatre*, in which the wild Beasts were kept, and likewise Men to be committed with wild Beasts, out of which these were let loose by the lifting up of Trap Doors, to be hunted or baited upon the *Amphitheatre*, were called *Cavea*. For we must know that the *Amphitheatre* was full of hollow Passages for many Reasons, as for the convenient keeping of wild Beasts and Beastiaries, so sometime for the better conveying of Waters thither, by the means whereof / real Ships and Sea-skirmishes were oftentimes exhibited upon the *Amphitheatre*. / Sueton. in. Domitian.

CAP. 20.

Moreover, for the better understanding of Classical Authors, it will not be impertinent to point at the general Names by which the religious Places were called, and to declare the proper Acception of each Name: the Names being these, *Templum, Fanum, Delubrum, Aedes sacra, Pulvinar, Sacrarium, Lucus, Scrobiculus, Ara, Altare, Focus.*

De Templo.

This word *Templum* doth sometimes signify those * * Rofin. ant. 1. 2. c. 2.
Spaces and Regions in the Air and Earth, which the *Au- gures* did quarter out with their crooked Staff at their Sooth-saying: sometimes it doth signify a Sepulchre or Grave, *b* because in old time Men did superstitiously pray and worship at the Tombs and Monuments of their deceased Friends, as if it had been in *Temples* or *Churches*; and in this sense may *Virgil* be understood. *b* Lilius Gyrald. de diis gentil. syntag. 17.

c Præterea fuit antiquo de marmore Templum Conjugis antiqui

c Lib. 4. *Æneid.* v. 457.

Most commonly it doth signify a *Church* or *Temple*; in which sense as often as it is used, it is *d* said *à templando*, from beholding; because when we be in the Church, by lifting up our Hearts by a divine Contemplation, we do as it were behold the great Majesty of God. *d* Fanc. Sylv. in orat. pro L. Muræ.

D

De

De Fano.

It is also called *Fanum à fando*, from speaking; not from the speaking of the Priest, but because the People do there speak unto God, and God again to the People. *f* Some are of opinion, that *Fanum* in propriety of speech, signifieth the *Church-yard*, or Court before the Temple; *Templum* signifieth the Edifice, or Church built.

f Turneb. ad-
ver. l. 3. c. 9.

De Delubro.

g Rosin. ant.
l. 2. c. 9.

h Rosin. ib.

Thirdly; A Church was called *Delubrum Synechdochicōs*, because it was the principal part of the Church, namely the place where the Idol-God stood; and it was called *Delubrum* from *Deus*; *g* as we call the place where the Candle is put *Candelabrum* from *Candela*. As concerning the outward form of the Churches, some were uncovered, because they counted it an heinous matter to see those Gods confined under a Roof, whose doing good consisted in being abroad; other some covered; some round, some otherwise; but within they much resembled our great Churches. They had their *Pronaon*, or *Church-porch*, whereabout they were wont to have the Image of the Beast *Sphynx*, which was so famous for his obscure Riddles; so that by this Image was signified, that the Oracles of the Gods, which were treated of within the Church, were dark and mystical. They had certain Walks on each side of the body of the Church, which they called *Porticus*; and in these places it was lawfull for them to merchandize, make Bargains, or confer of any worldly Business; as likewise, in the *Basilica*, or Body itself. But their Quire, called *Chorus*, was counted a more holy place, set apart only for Divine Service. The manner of hallowing it was as followeth: *h* When the place where the Temple should be built, had been appointed by the *Augures* (which appointing or determining the place, they called *Effari Templa, & sistere Fana*); then did the Party, which formerly in time of need, upon condition of help from the Gods, had vowed a Temple, call together the *Aruspices*, which should direct him in what form

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form the Temple should be built : which being known, certain Ribbands and Fillets were drawn about the *Area*, or plot of Ground, with Flowers and Garlands strewed underneath, as it was probable, to distinguish the limits of this Ground now to be hallowed. Then certain Soldiers marched in with Boughs in their hands, and after followed Vestal Nuns, leading young Boys and Maids in their hands, who sprinkled the place with Holy Water. After this followed the *Prator*, some *Pontiff* going before, who after the *Area* had been purged, by leading round about it a Sow, a Ram, and a Bull, sacrificed them : and their Entrails being laid upon a Turf, the *Prator* offered up Prayers unto the Gods, that they would bless those holy Places, which Good Men intended to dedicate unto them. This being done, the *Prator* touched certain Ropes, wherewith a great Stone, being the first of the Foundation, was tied ; together with that, other chief Magistrates, Priests, and all sorts of People did help to pluck that Stone, and let it down into its place, casting in wedges of Gold and Silver, which had never been purified, or tried in the fire. These Ceremonies being ended, the *Aruspex* pronounced with a loud voice, saying ; *Ne temeretur opus, saxo autrove in aliud destinato ;* i. e. Let not this Work be unhallowed, by converting this Stone or Gold into any other use.

De Æde sacra.

Fourthly ; A Church was called *Ædes sacra*, an holy House, because of the Sacrifices, Prayers, and other holy Exercises performed therein. Although (as *Gellius* hath long since observed) every holy House was not a Church. For the proper note of distinction between a Church and a Religious House was this, That a Church, beside that it was dedicated unto some God, it was also hallowed by the *Augures*, without which hallowing the Edifice was not called a Church, but a Religious House : of which sort was the Vestal Nunnery, and the common

Treasury, called *Ædes Saturni*. We may add hereunto this word *Pulvinar*, which doth often signify a Church: the reason being taken from a Custom amongst the *Painims*, who were wont in their Churches to make certain Beds in Honour of their Gods, and those Beds they called *Pulvinaria*, from *Pulvis*, because they were filled with Dust or Chaff.

De Sacraia.

† Cic. pro Milone.
† Franc. Sylvius in orat. pro L. Muræ.

Sometimes *h Sacraium* signifieth a Temple, though properly it signifieth a Sextry or Vestry, *nampe l Sacrorum repositarium.*

De Lucis.

Near unto divers Temples stood certain Groves dedicated to some of the Gods: they were called in Latine *Luci*, *à non lucendo*, as divers say, by the Figure *Antiphrasis*. But others are of a contrary opinion, giving it that Name, because of the exceeding Light it had in the Night-time, by reason of the Sacrifices there burnt.

De Scrobicula, Ara, & Altari.

The places upon which they sacrificed either in their Religious-Houses, or their Groves, were of three sorts: which we in English term Altars: but the *Romans* distinguished them by three several Names, *Scrobiculus, Ara, & Altare.*

De Scrobiculo.

m Alex. Gen. dier. l. 5. c. 16.

m Scrobiculus was a Furrow, or Pit, containing an Altar in it, into which they poured down the Blood of the Beast slain, together with Milk, Honey, and Wine, when they sacrificed to an Infernal God.

De Ara.

The second kind of Alar was called *Ara*, either *ab ardeudo*, because their Sacrifices we burned upon it; or from their Imprecations used at that time: which in Greek they called *ἀγὰς*. It was made four-square, not very high from the Ground, or as some say, close to the Ground: and upon this they sacrificed unto the terrestrial Gods, laying a turf of Grass on the Altar: and this gave

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gave *Virgil* occasion to call them *n Aras grimeneas*, i. e. *n Vir. Æn. 12.*
Grassy Altars.

De Altari.

The third fort was called *Altare*, either because it was exalted, and lifted up somewhat high from the Ground; or because he that sacrificed (by reason the Altar was so high) was constrained to lift up his hands *in altum*, on high: and upon this they sacrificed unto their Celestial Gods only.

De Foco.

Focus is a general name, signifying any of these Altars, so called à *fovendo*: because, as *Servius* hath observed, that is *focus*, *quicquid fovet ignem, five ara sit, five quicquid aliud in quo ignis fovetur*. But in strict propriety of speech, it is taken for that Altar on which they sacrificed to their domestick Gods, such as were their *Penates* or *Lares*; as appeareth by *Plautus* p.

Hæc imponentur in focum nostro Lari,

Ut fortunatas faciat gnata nuptias.

Whence ariseth that Adage, *Pro aris & focus centare*, sounding as much as to fight for the defence of Religion, and ones private Estate: or (as our English Proverb is) for God and our Country: the Proverb being in its original, part of the Oath that was administered unto the *Roman* Souldiers; and thus it is expounded by *q Tur-* *q Turneb. adv.*
nebus. l. 10. c. 7.

o Serv. in Bucolic. eclog. 5.

p Aulular. act. c. Sc. 5.

LIB.



LIB. I. S E C T. II.

*The general Divisions of the
Roman People.*

CAP. I.

De Populo Romano, & ejus prima Divisione.

THUS having premised a short Treatise concerning the first situation of *Rome*, and the most remarkable parts thereof, I purpose to proceed to the Inhabitants, which Antiquity hath styled Citizens of *Rome*. And *Erasmus* rather describing a *Roman* than defining him, saith, A *Roman* was grave in his Conversation, severe in his Judgment, constant in his Purpose. Whence *Cicero* in his Epistle often used this phrase, *More Romano*, for *ex animo*, i. e. unfeignedly. a *Sigonius* rendring the definition of a *Roman* Citizen, averreth, that no Man is *Lege optima*, i. e. in full and compleat manner a Citizen of *Rome*, but he which hath his habitation there, which is incorporated into a Tribe, and which is made capable of City-preferments. By the first particle, those which they term *Municipes*; by the second, those which they call *Inquilini*; and by the third, those which they call *Libertini*, are in a manner disfranchised. But whereas *Sigonius* saith, that they must have their habitation at *Rome*, he would not be so understood, as if a *Roman* Citizen might not remove his habi-

a Sig. de jur.
Rom. l. i. c. i.

habitation to any other Country : For, saith he, a Roman Citizen may be as long absent from Rome, and the Fields belonging to Rome, as he pleaseth, so that he suffer himself to be celled and taxed in common with others toward the Subsidy-payments, and denieth to be incorporate into another City. For T. Pomponius was a true Citizen of Rome, though he dwelt at Athens. The Roman Citizens being by these Privileges, as by a more proper and peculiar Character, distinguished from other People; and being planted in the City according to the appointment of Romulus their King, it seemed good unto him to divide them into 6 Tribes, not taking the note of distinction only from the divers places they then inhabited, as we reade that Servius the sixth King of Rome did, making therefore four Tribes τοπικὰς, local, namely Suburbanum, Palatinam, Collinam, and Esquilinam, (which number of local Tribes in process of time increased unto the number of 35) but dividing them according to their several Nations, which at the first were donati Civitate, id est, made free Denizens of Rome : and they being in number three, 1. The Sabines, which were named Tatienses, from their King Tatius. 2. The Albanes, called Rhamnenses from Romulus. 3. Other Nations, promiscuously flocking out of other Countries to the Roman Asylum, placed in a Grove, called in Latin Lucus, (which gave Romulus an occasion to name them Luceres :) he made in all three Tribes γενικὰς, or national. After that Romulus had thus divided the whole Body of the Romans into three Tribes, he then subdivided each Tribe into ten lesser numbers, which he called Curia, or Parishes : and then followed five other divisions, in respect of their different degrees and callings : of which in their several Order.

b Sig. de jur.
Rom. l. i. c. 3.

CAP. II.

De prima divisione Romanorum, in Senatores sive Patres, Patricios sive Patrones, & Plebeios sive Clientes.

THe first Division of the *Romans* in respect of their Degree and Place, was this: The elder, wealthier, and gravest sort of *Romans*, were called sometime *Patricii*, either because of their Age or Gravity; or because they had many Children (for great Priviledges were granted unto Fathers of three Children;) and sometimes *Patroni*, because they were as Patrons and Fathers in helping and assisting the Causes of the common People seeking to them. The younger, poorer, and simpler sort were called, as they had relation to the *Patricii*, *Plebei*, i. e. the Commons; as they had relation to their *Patroni*, they were named *Clientes*, *id est*, Clients: between whom there was such a mutual and reciprocal intercourse of Love and Duty, that as the *Patrons* were ready to protect their Clients, so the *Clients* were bound with all Faithfulness to cleave unto their Patrons: and that not only to credit them with their Attendance in publick Assemblies, but to disburse out of their own Purses towards the bestowing of their Daughters, the paying of publick Mulets, the giving of Largesses in suing for Offices, &c. Neither was it lawful for either of them to inform, to despose, to give their Voices, or to side with Adversaries one against another, without the guilt of Treason; for which crime of Treason they were *diis infernis devoti*, i. e. cursed to Hell, and the Law gave Liberty for any Man to kill them. Out of the *Patricii* did *Romulus* elect 100 Counsellours to assist him in determining matters concerning the Common-weal: to these did *Romulus* after add another 100, and *Tarquinius Priscus*, as divers Authors testify, made them a compleat 300, which they called *Patres*, or *Senatores*, and their Sons *Patricii*. But in process of time the

• Lazius de
Repub. Rom.
l. 12. c. 3.

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the Commons also were eligible into a Senators place. Some say, that *Tarquinius Priscus* added the second hundred to the *Senate* out of the Commons, who were called *d Senatores minorum Gentium, id est, Senators* of the lower House. *Brutus* added the last hundred, and made them 300, at what time they began to be called *Patres conscripti*. And this accordeth with *Johannes Rosa* in his Epitome to the *Roman History*, in his *Ch. de Regibus Romanis*: where he saith, that *Tarquinius Priscus* did double the number of the *Senators*: and likewise *e Alexander Neop.* saith that *Brutus* made them compleat 300. d Mert. Philericus in Cic. l. 1. ep. fam. 1. e Alex. Gen. dier. l. 9. c. 2.

C A P. 3.

De secunda divisione Romanorum in tres ordines: Senatorium, Equestrem, Popularem, seu Plebium.

After that through *Tarquinius Superbus* his Tyranny, the very name of a King became odious to the *Romans*, not only the present King was exiled, but the Authority of a King ever afterward detested and perpetually abrogated; so that the Office which was before Monarchical, then was divided between two, called *Consuls*: Neither were they admitted for any longer space than one Year. At which time of change the *Romans* were divided into three Orders or Ranges. 1. Into *Senators*, of whom before. 2. Into *Gentlemen*, called of the *Romans Ordo Equestris*: by which we do not understand those 300 *Celeres, id est, Pensioners*, called sometimes *Equites*, for that was a place of Service, this a title and token of Gentility; who although they were inferior to the chief Senate, yet they were of great esteem among the *Romans*; and although they might not wear the same Robe as the Senators did, namely the *Laticlavium*, or Garment bestudded with flourishing of Purple Silk in manner of broad Nails-heads: *f* yet they might wear the *Angusticlavium*, a garment different from the former f Rosin. ant. l. 1. c. 17.

E

only

g Lipsale mag-
nitud. Rom.
l. 1. dial. 5.
h Alex. Gen.
dier. l. 2. c. 29.

i Suet. in Aug.
k Plin. lib. 33.
c. 22.

only in this, because the purple Studs wherewith it was purfled, were narrow, and not so large as the *Laticlavium*. They also at the time of their Election received from the *Censors* a Horse called by them *Equus publicus*, because of the yearly allowance out of the common Treasury to keep him; it was also called *Equus militaris*, because of their Service in War, g (they having their Horses kept as well in Peace as War. They received also a Gold Ring, h whereby they were distinguished from the Populacy: for it was not lawful for any to wear a Gold Ring under the degree of a Senator, or Gentleman. The estimation and value of a Senators Estate i until *Augustus* his time, was *octingenta sestertia*, that is, 6000 l. k Of a Gentlemans Estate it was, *quadringenta sestertia*, id est, of our English Money 3000 l. The third order or degree in the Roman Common-wealth was *Populus*, the Populacy, or *Commons*, which should exercise Trading, manure the Ground, look unto the Cattle, &c. Where by the way we must understand, that the baser sort of the *Romans* which did wander up and down to and fro, not settling themselves to any vocation, were not contained within this division; for unto them there was no name vouchsafed, but according to the Poet, they were *sine nomine turba*, or as *Livy* saith, *ignota capita*, Men of no account, and therefore of no name.

C A P. 4.

De tertiâ divisione in Nobiles, Novos & Ignobiles.

THIS division was taken from the Right or Priviledge of having Images; for they were accounted Noblemen, which had the Image of their Predecessors: Those which had their own Images only, were called *Novi*, that is, late quoined Nobles or Upstarts. *Salust* useth this word often in the disgrace of *Tully*, calling him *Novum & repititium Civem*, one that lately crept into the City. The third sort, called *Ignobiles*, were those that had no Images, neither

neither of their Predecessors, nor of themselves. Before we proceed, we must understand that it was not lawful for who would to have his own Image if he so desired; for none might be thus privileged but those alone, to whom the right of riding in a Curule Chair belonged; and to these the right of Images was permitted, as well for the credit of their House, as to incite others to the like achievements, when they would consider the divers Ceremonies used unto these Images in an honourable remembrance of those whom they did represent. Whence it followeth, that *Jus Nobilitatis* is nothing else but *Jus Imaginis*: Insomuch that this word *Imago* doth sometimes signifie Nobility; and the right of having Images with them, was the same as the right of having Arms with us. *m* The superstitious conceit which the Romans had of these Images was such, that upon festival days, and all occasions of Joy and Mirth, those Images should be beautified and adorned with Garlands and flowers; upon occasion of grief and mourning, they would take from them all their ornaments, making them in a manner partake of their Mourning. Some they kept in private Closets, *n* others they exposed to the publick view of Passengers, placing them in the gates of their Houses, together with the Swords, Targets, Helmets, Ship-beaks, and such other spoils as formerly they had taken from their Enemies; *o* which it was not lawful for any, though they bought the House, so much as to deface. Yea, they were so annexed to the freehold, that they passed always in the conveyance of the House. The matter of which they were commonly made, was Wax, as that of *Juvenal* doth sufficiently witness.

l Sig. de Jur. Rom. l. 2. c. 22.

m Alex. Gen. dier. l. 5. c. 24.

n Barth. Lat. in Verrin. 7.

o Plin. 25. 1.

p *Toto licet veteres exornent undiq; cera
Atria, nobilitas solo est atq; unica virtus.*

p Juv. Sat. 8.

Again, We may not think, that they made in Wax a compleat Statue, or a full Portraicture of the whole Body, but only from the Shoulders upward.

CAP. 5.

De quarta divisione Romanorum in Optimates & Populares.

q Cic. pro
Sextio.

r Geor. Merula
in orat pro
Ligario.

THIS fourth division of the *Romans* hath been occasioned through the faction and siding of the Citizens. Those (according to the description of q *Tully*) were *Optimates*, *id est*, the best Citizens, who desired their actions might be liked and approved by the better sort: Those *Populares*, *id est*, popular, who through desire of vain glory, would not consider so much what was most right, as what should be most pleasing unto the populacy. So that here by this word *Popular*, we understand not the Commons as formerly we did, r but be he Senator, Gentleman, or Inferior, if he do more desire that which shall be applauded by the major part, than that which shall be approved by the better part, him the *Romans* called *Popular*, *id est*, such a one, that preferreth the popular applause before the right.

CAP. 6.

De quinta & ultima divisione Romanorum, in Libertos, Libertinos, & Ingenuos: Item de Manumissione.

f Justin. inst.
l. i. tit. de in-
genuis, vid.
Franc. Sylv. in
Catalin. 4.

THE difference of the Freedoms in the City of *Rome*, hath given occasion of this division: for he or she that had served as an *Apprentice*, and afterward was manumised, was named *Libertus* or *Liberta*. The Son whose Father and Mother were once Apprentices, was called *Libertinus*; but that Son whose Father and Mother were both *Libertines*, or both free born, yea whose Mother only was free, was called *Ingenuus*, *id est*, free-born. But after *Appius Cacus* his Censorship, then began *Liberti* and *Libertini* to signifie one and the same degree of Freedom: so that *Liberti* and *Libertini* were taken for those which served

served for their freedom; and *Ingenui*, were taken for those which were free-born, whether their Parents were *Liberti* or *Libertini*. Here is occasion given us to consider the manner of their Freedom, and such Ceremonies which belonged thereunto. The Freedom of the City of Rome was three ways obtained; 1. By *Birth*, both, or at least one of the Parents being free; and such were called *Cives originarii*. 2. By *Gift* and *Cooptation*, when the Freedom was bestowed on any Stranger, or Nation; and they were termed *Civitate donati*: and so we read that *Cæsar* took in whole Nations into the Freedom. Lastly, by *Manumission*, which was thus: when as the Servant was presented by his Master before the *Consul* or *Prætor*, the Master laying his hand upon his Servants head, used this form of words, *Hunc liberum esse volo*; and with that turning his Servant round, and giving him a Cuff on the Ear, he did *emittere servum e manu*: the *Prætor* then laying a certain Wand or Rod called *Vindicta* upon the Servants head, replied in this manner, *Dico eum liberum esse more Quiritum*. Then the *Liçtor* or Sergeant taking the Wand, did strike therewith the Servant on the Head, and with his hand struck him on the Face, and gave him a push on the Back, and after this he was registred for a Free-man. Moreover, the Servant having his Head shaven purposely at that time, received a Cap as a token of liberty; whence *ad pileum vocare aliquem*, is to set one at liberty, as likewise *Vindicta liberare*. ^u According to *Tertullian*, at this time of their Manumission the Servants received from their Masters a white Garment, a Gold Ring, and a new Name added unto the former. Whose Authority if we admit, then the having of three Names among the *Romans* was rather a sign of Freedom, than of Nobility. And that of *Juvenal*,

Tanquam habeas tria nomina——

is not to be expounded, as if you were a Noble-Man, but, as if you were a Free-man. Here we may also consider the two several kinds of Servants; the first were called *servi*,
and

e P. Ramus in
orat. pro C.
Rabirio.

* Tert. de
resur. carn.

x Dion. Halicar. l. 4.

y Sig. de Jur. Rom. l. i. c. 31.

z Mic. Toxita in orat. pro P. Quintio.

a Fr. Sylv. in ep. virorum illust. l. i. ep. 6.
b Vid. Coel. Rhod. l. 12. c. 20.
It. A. Gel. l. 2. s. 21.

and they could never attain to any freedom, without the consent of their Master. x For those that were thus *Servi*, were commonly Captives, either bestowed as a reward upon this or that Souldier, or bought *sub Corona*, or of other Citizens that had gotten them one of these two former ways. The second were called properly y *nexi & addicti*, because though they were free, yet by reason of their debt, *addicebantur*, that is, they were delivered up unto their Creditors by the *Prator* to work out the debt, so that after the payment thereof, either by Money or Work, they did recover their Liberty; whence they were said z *nomina sua liberare*, when they paid the debt; as on the contrary they were said *nomina facere*, when they became in debt. And their Creditors when they sued for the Payment, were said *nomina exigere*: *nomen* in these and the like places signifying as much as *debitum* a debt, a because their Creditors did use to write down their Debtors names. b The manner of suing for their debts was as it followeth; The debt being confessed, thirty days were allowed the Debtor for payment of the Money (those days of respite they called *dies justos, velut justitium quoddam*, id est, *juris inter eos interpositionem & cessationem*.) The Money not paid, the Debtor was delivered up as a Servant to his Creditor; yea, he was sometimes cast into Prison; and unless the Creditor were in the mean time compounded with, he remained three-score days in Prison; and three Market-days one after the other being brought before the Judge, the Debt was solemnly proclaimed, and upon the third Market-day he was either sold to foreigners for a Slave, or else was punished with Death, each Creditor being suffered, if he would, to cut a piece off his dead Body instead of Payment.



LIB. II. SECT. I.

The general Divisions of the
 ROMAN GODS.

De Diis.

THough Satan had much blinded the Hearts of Men in old time, yet was not the darkness of their understanding so great, but that they did easily perceive, and therefore willingly acknowledg that there was some Supream Governour, some first Mover, as *Aristotle* saith, some first Original of all goodness, as *Plato* teacheth. So that if any made this question, whether there were any God or no? he should be urged to confess the truth of that, rather *Argumento bacillino*, quàm *Aristotelico*, rather with a good Cudgel, than with any long dispute. But as they were most certain that there was a God, so were they again very blind in discerning the true God: and hence hath been invented such a tedious Catalogue of Gods, that (as *Varro* averreth) their number hath exceeded thirty thousand, and proved almost numberless. Wherefore I shall omit to make any distinct Treatise of the Gods, intending *obiter* and by the way to speak of them, which either

either had Priests, or Sacrifices instituted for them. Only I purpose to shew what is understood by those general distinctions of the Gods which divers Authors have used. *Tul. lib. 2. de legibus*, reduceth all unto three heads; Gods Cœlestial, which *Varro* calleth select; and others have stiled Gods *Majorum Gentium*, i. e. of the greater Nations, because their Power was greater than the others.

a Alex. Gen. dier. l. 6. c. 6.

a Alexander Neopolitanus saith, that twelve of these were the *Penates* which *Eneas* did take forth with him at the destruction of *Troy*. *Ovid* calleth them *Deos Nobiles*, noble Gods: others call them, *Deos consentes*, quasi consentientes, because *Jupiter* would do nothing without the consent of all. *Ennius* hath delivered them in this Distich.

Juno, Vesta, Minerva, Ceres, Diana, Venus, Mars, Mercurius, Jovis, Neptunus, Vulcanus, Apollo.

b Serv. in lib. Georgic.

The second sort of Gods were called *b Semidei*, id est, Demi-gods; also *Indigites*, id est, Gods adopted or canonized; Men deified. For as the select Gods had possession of Heaven by their own right: so these Gods canonized, had it no otherwise than by right of Donation, being therefore translated into Heaven, because they lived as Gods upon Earth; but because their merit was inferior, and could not parallel the deserts of the Gods select, therefore they were called Gods of inferior note. *c Servius* would have these called *Divi*; observing this difference between *Dii* and *Divi*, that *Dii* should signifie those that had been Gods perpetually, but *Divi* should signifie Men made Gods; though commonly they are used one for another. Whence they called all their Emperors *Divi*, because for their deserts they thought them worthy to be Gods. Now the *d* manner how a Man became deified was this: The party to be canonized being

d Rosin. ant. l. 3, c. 18. vid. Hospin. de orig. Christ. F. p. 21. vid. exemplum hujus consecrationis in Severi sepultur. Herod. l. 4. p. 298.

dead, a Pile of wood was made in form of a great Tent, or Tabernacle, with three other lesser Tabernacles, one on the top of another, the lowermost having in it dry combustible matter, but on the out-side adorned richly with Gold, Ivory, and painted Tables; hither the dead Corps

corps was to be carried with great solemnities ; the Senate, the Gentleman and all the chief Magistrates going before, with hymns and songs, and all kind of honour which was to be performed even to the Gods themselves. He being in this manner brought, and laid within the second Tabernacle, the fire was kindled, by him who was to succeed in the Empire, for I find none canonized but only Emperors at their decease : forthwith at the kindling of the fire, a living Eagle was let fly from the top of the Tabernacle, which was supposed to transport the soul of the dead body into Heaven, insomuch that ever after he was canonized amongst the Gods, and worshipped as a God. And because they were thus turned into Gods, some have called them *Deos animales, quoniam animæ humane verterentur in Deos*. This *e* canonization *e* Serv. in *Æn.* was by the Greeks termed ἀποθέωσις, by the Latins *con-* lib. 3.
secratio. The third sort were those moral vertues, by which as by a ladder Men climbed into Heaven : and therefore did Men stile them Gods, because by their means Men became deified. Late Writers perceiving that all the number of the Gods could not be reduced into these three heads, have added a fourth sort, which they *f* call *f* Rosin. antiq. *Semones, quasi semi homines*, because ancient Writers, as l. 2. c. 19.
Rosinus hath observed, called Men *hemones*, not *homines* : in which point I shall willingly condescend unto him ; but I shall leave to the judgment of others, to determine how justly he hath restrained the Gods *minorum gentium*, of the lesser Nations, only unto this last *classis* : whereas my opinion is, that the demi-gods, the moral vertues which have been stiled Gods, and these *Semones*, may all of them be called Gods of the lesser Nations, standing in opposition with the Gods select, which are called Gods of the greater Nations. But that we may understand what is meant by these *Semones*, we must remember that by them are signified unto us not those Gods which do appertain to Man himself, but to the necessities of Mans living, his victuals, his cloathing,
F and

and the like : not to the being of a man, but to the well-being of him ; of which sort is *Salus, Fortuna*, with others We read likewise of other names given in common to divers Gods, not as to opposite members of a division, but as notes of distinction, drawn from the diversity of help, which they severally did afford unto man. In this respect some were called *Dii Patrii*, or *Tutelares*, such as had undertaken the protection of any City or Town : which opinion had sometimes been entertained by our English-men, and thence have risen these and the like speeches, *St. George for England, St. Denis for France, St. Patrick for Ireland*, &c. And the *Romans* being fully perswaded of the truth thereof, whensoever they went about to besiege any Town, by certain Enchantments or Spells, they would first call out these Tutelar Gods ; because they deemed it a matter impossible, to captivate the City, as long as these Gods were within ; or at least they thought it a crime unexpiable to take the Gods as prisoners. And lest other Nations might use the same means in besieging *Rome*, therefore, *g* as divers Authors have thought, the true Name of the Roman City was never known, lest thereby the Name of their Tutelar God might be descried. Others namely, the *Tyrians*, have tied fast their God *Hercules* with a Golden chain, thereby the more to secure themselves of his residence among them. *h* Others have been called *Dii communes*, namely, *Mars, Bellona*, and *Victoria*, because in time of War they are not bound to either side ; but sometime they help one side, and sometimes the other. And as they supposed some Gods to have the protection of whole Countries, so did they believe that others had the charge of particular men ; and that as soon as any man was born, two spirits did presently accompany him invisibly, the one termed the *bonus Genius*, or good Angel, perswading him to that which should be good ; the other called the *malus Genins*, or evil Angel, tempting to that which should be hurtful : insomuch that they thought all the actions

g Sylvius in
epist. virorum
illustrum.

h Alex. Gen.
dier. l. 6. c. 4.

actions of men to be guided by these Angels, called *Genii*: so that if any misfortune befel a Man, they would say that the matter was enterprised *Diis iratis*, *id est*, our *Genius* being displeased with us. *Virgil* calleth these bad Angels *Manes*, as it appeareth by that, *Quisq; suos paritur manes*, *id est*, every Man hath his evil Angel, *id est*, some misfortune. These *Genii* were thought to be a middle Essence betwen Men and Gods. They are therefore called *Genii*, because they have the tuition over us so soon as we are *Geniti*, *i. e.* born. It is most certain that old Authors used *Geno* for *Gigno*; whence *i Tully* saith, *i Cic. l. 2. de Si mihi filius genitur*; and *k Varro*, *Antequam genat fili-* orat.
quas: although every place had also his *Genius*, as here- k Varro Rei
after shall appear. This opinion was the more confirmed Rust. l. 1. c. 31.
by a vision which appeared unto *l Brutus* in *Asia* near unto l Plut. in Brut.
the time of his death: for *Brutus* watching upon a certain night in his Pavilion, the candle being near spent, saw a fierce tragical person appear unto him, somewhat bigger than a man; and he presently, being of an undaunted spirit, demanded whether he were a God or a Man? To whom the vision answered, *Brutus*, I am thy evil *Genius* which haunteth thee; thou shalt see me at the City *Philippi* again: and the same vision appeareth unto him, as he was fighting at *Philippi*, which was the last fight that ever he fought. And because *Juno* was wont to be invocated in the time of Childbirth, therefore many have thought that every Man hath not his two Angels, but one Angel, and *Juno* to observe him: but it is agreed upon by best Authors that as the Angels or Spirits which did attend Men were termed *Genii*, so those which guarded Women were termed *Junones*. This *Genius*, as often as he is understood for the good or evil *Angel*, which hath charge of a Mans body, is painted in form of a Man, as we read did appear to *Brutus*; though sometime he is painted as a young boy, sometimes as an old decrepit Man, m but always with a m Rosin. ant.
crown of plane-tree, which therefore was called *Genialis* l. 3. c. 14.
arbor: in the right hand he held a platter over an Alter

garnished with flowers; in the left he held a scourge hanging down. The Sacrifice that was performed unto the *Genius*, was wine and flowers: whereupon (as if by wine and fragrant odours, were signified all kind of pleasures) certain proverbial speeches have been occasioned; as when we see a Man given much to his pleasure and dainty feeding, we say he doth *indulgere genio*, i. e. pamper or make much of his *Genius*: on the contrary, he that is abstemious, and debarreth himself of his pleasure, and dainty feeding, is said, *defraudare Genium*, to defraud his *Genius*: and *genialis* signifieth jocund or pleasurable.

n Vid. Erasmi. fant. adag.

o Cael. Rhod. l. 28. c. 6.

n It was also the custom after meals to have a cup pass round the Table, much like unto our *poculum charitatis*, and it was called *poculum boni Genii*. o The Grecians had a like custom, whence that cup was called by them, *κοῖνὸν ἀγαθὸν δαίμων*. But the reason why they would not sacrifice unto their *Genius* by killing some Host, as they did to their other Gods, was, because they judged it unfit to deprive any creature of his life upon that day, when they first began their life, (for this Sacrifice was performed yearly by every one upon his birthday.) Horace notwithstanding doth more than intimate the killing of a young Pig in that Sacrifice.

— *cras Genium mero*

Placabis, & porco bimestri. Hor. lib. 3. Od. 17.

The other *Genius* which is supposed to have chief power over high-ways and places, being therefore called *Genius loci*, was pictured in form of a Snake, in which form Virgil feigned him to have appeared to *Aeneas*, when he performed the funeral Rites due unto his Father *Anchises*, *Ænid.* l. 5.

— *aditis cum lubricus anguis ab imis*

Septem ingens gyros, septena volumina traxit.

And Persius;

Pinge duos angues, pueri, sacer est locus, extra

Merite: id est, duos Genios.

Another sort of Gods was supposed to have the keeping of

of mens houses : p which they painted in form of a Dog, p Franc. Sylv.
because those to whom the charge of houses is committed in orat. pro
ought to resemble Dogs, that is, to seem fierce and an- Sext. Rosc.
gry towards strangers, but gentle and kind to those of Am.
the household. Other properties wherein these *Lares* do
resemble Dogs, are recited by *Ovid. Fast. 5.*

Servat uterq; domum, domino quoq; fidus uterq; est,

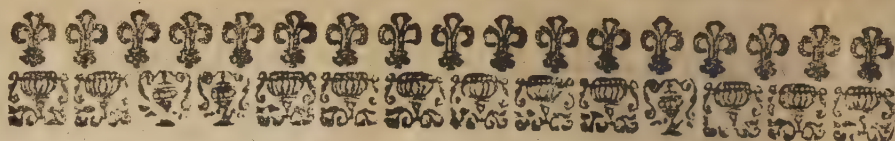
Compita grata Deo, compita grata cani :

Exagitant & lar, & turba Diani afures,

Pervigilantq; Lares, pervigilantq; canes.

They were named *Lares* ; and because of the charge
they had over mens houses, this word *Lar* is sundry times
taken for an house it self, as *parvo sub Lare, Horat.* in a
little Cottage : *homo incerti laris, id est,* a man that hath
no house to dwell in, *Sen. in Med.* And the custom in
sacrificing unto them, was to eat up all whatsoever was
left at the offering, for they thought it an heinous mat-
ter to send any of that sacrifice abroad, either among
their freinds, or the poor : and thereupon when we see a
glutton leave nothing in the platter, not so much as the
courtesy-morsel, we say *Lari sacrificat, id est,* he sacrifi-
ceth to his household-god.

LIB.



LIB. II. SECT. II.

*Of the Roman Priests, with some
particular Gods.*

F*Aunus* the ancientest of all the Kings in *Italy*, was the first that brought any form of Religion into *Italy*. He consecrated Groves, gave names unto Cities, erected Temples, ordained Sacrifices, &c. From whom the Churches, as some say, were named *Fana*. But after *Faunus*, *Evander* coming out of *Arcadia*, and afterwards being King of *Latium*, he instituted and appointed many other Ceremonies, which before were unknown to the Latines. After him *Aeneas* coming from *Troy*, taught many of the *Trojan* Ceremonies: by whose examples *Romulus* and *Numa* were incited to add many other kinds of holy Rites, and so at length reduced their whole Religion into a certain order, especially *Numa*, who, that he might gain the more credit and authority to his new-invented superstitions, feigned that he had conference about them every night with the Goddess *Egeria*. My intent therefore is, to speak first of the Gods in whose honour these holy Rites were performed, and then to descend unto the Priests, which were to perform them, shewing withal the Ceremonies they used in the performance.

CAP.

CAP. I.

*De Pane Lyceo, sive Jano : de Lupercis
& Lupercalibus.*

PAN was supposed to be the God of the shepherds, and is * thus described : he is pictured naked, having horns in likeness of the Sun-beams, a long beard, his face red like the clear air, in his breast the star *Nebris*, the nether part of his body rough, his feet like a Goat : in one hand he holdeth a Pipe, in the other a shepherds crook, and always is imagined to laugh. *b* He was worshipped first in *Arcadia*, and there called the God *Pan Lycæus*, but afterwards he was had in great esteem at *Rome*, *c* and in the honour of him certain sacrifices and games called *Lupercalia* were solemnized by the *Romans*. *d* There he took the name of *Inuus*, or as some say *Junus*. Concerning the time when these sacrifices were to be performed, it was upon the *e* unfortunate days of the month *February*, which hath his name à *februando*, from purging : whence the feast or game is a purification; though the Latine word signifieth as much as a feast of Wolves, in a memorial that *Romulus* and *Remus* were nursed by a she-wolf. This seemeth very probable, because the Priests, which were called *Luperci*, began their course at the foot of mount *Palatino*, called by the *Romans*, *Lupercal*, *id est*, the place where the wolf nursed *f* *Romulus*. The ceremonies were these : the hoast (being two Goats) was to be slain, and two Noble mens Sons were to be present, whose foreheads, being bloodied with the knives of them that had slain the Goats, by and by were to be dried up with wool dipped in milk. Then the young Boyes must laugh immediately after their foreheads were dry. That done, they cut goat-skins, and made thongs of them, which they took in their hands, and ran with them all about the City stark naked (saving they

* Serv. in
Virg. Ecl. 2.

b Feneft. de
sacerd. c. 1.

c Feneft. lib.

d Pomponius
Lætus de Sa-
cerd. cap. de
Luper.

e Plutarch. in
Romulo.

f Plutarch. in
Romulo.

they had a cloath before their privities) and so they struck with those thongs all they met in the way. The young wives did never shun them at all, but were well contented to be stricken with them; believing it helped them to be with child, and also to be easily delivered. Moreover it is to be noted, that a Dog was sacrificed at this time, because there is a natural antipathy, or contrariety of nature between the Dog and the Wolf: whereby *Romulus* thought to testify his gratefulness unto the Wolf for her pains in nourishing him. The reason why the Priests ran up and down the streets naked, was, because that *Pan* the God of this sacrifice was painted naked. As the feast, so also the place from whence they came, and likewise the Priests had their names à *Lupa*, which signifieth a Wolf. Some Authors have observed three sorts of the *Luperci*; some called *Fabiani*, some *Quintiliani*, from *Fabius* and *Quintilius* their Governours: the third sort, which *g Rosinus* affirmed to have been added in the honour of *Julius Caesar*, I cannot find according to his quotation in *Suetonis*. But thus much *Suetonis* saith in *h* another place, namely that *Augustus Caesar*, when he was chief Pontife, did restore those games again, being formerly abolished.

g Rosin. ant.
l. 3. c. 2.

h Sueton. in
August.

C A P. 2.

De Cerere, & sacris ejus.

Ceres, otherwise called *Eleusina*, was honoured first among the *Grecians*, afterward among the *Romans*, as a Goddess which first taught Men the skil of husbandry.

Prima Ceres ferro mortales vertere terram
Instituit. *Virg. Georg.*

Whence she is sometimes *metonymicās* taken for corn, as *Credenda Ceres arvis*, *Ovid.* It is seed-time. She is called *Ceres*, *i quasi Geres*, à *gerendis frugibus*, from bearing fruit: because, as some say, by *Ceres* is understood sometimes

i Cic. l. 3. de
nat. Deor.

Sometimes the earth it self; whence also *ἑρμῆς*, being the Greek name of *Ceres*, is said quasi *ἡ μήτηρ*, i.e. the Earth which is the common Mother of us all. & She is painted in the habit of a Matron, wearing a Garland of Corn, sometime sorrowful, with a Lamp in her hand, as if she were seeking out her Daughter *Proserpina*, carried by *Pluto* into Hell: and sometime with a handful of Corn or Poppy-feed. Upon the fifth of the Kalends of April, the Romans were wont to perform Sacrifices unto her, which they called *Sacra Græca*, i.e. the Grecian Sacrifices: as likewise they termed the chief Woman which did perform them, *sacerdotem Græcam*, i.e. the Greek Ministress, because they were translated into Rome out of Greece by *Evander*. The time of their Solemnities was at the dawning of the day, and the Priests, which were only Women, ran up and down with Lamps in their hands in manner of mad Women; into whose Temple none that was guilty of any fault committed, might enter; whose Mysteries were to be buried in silence, and by no means to be babbled abroad. And as it is to be supposed, that was the reason why all Wine was forbid in this Sacrifice. So that hence we say, *Cereri sacrificat*, he sacrifices to *Ceres*, when he makes a Feast without Wine.

l. Rosin. ant.
l. 2. c. 11.

l. Plautus in
Aulularia.

C A P. 3.

De potitiis, & Pinariis, Herculis sacerdotibus.

Hercules had an Altar erected in the memorial of him near unto *Tiber* by *Evander*, upon occasion of the Herdsmens complaint brought unto *Evander*, of him whom they accused to have slain their chief Herdsman *Cacus*, the History being thus: *Hercules* after his conquest over *Geryon*, brought away with him certain goodly Oxen, and as well to rest himself, as to pasture his Oxen, he laid him down to sleep in a green field near the River *Tiber*: In the mean while a certain Herdsman called *Cacus*, who hapned to come that way, and perceiving

in Serv. Æn.
lib. 8.

G

Hercules

Hercules to be in a sound sleep, he stole away two of his Oxen, which he hid in a Cave or hollow Rock, pulling them in by the tail backward, thinking that *Hercules*, when he should look his Oxen, and see the print of their footsteps, would easily believe that his Oxen had rather gone out from the Rock than into it, as indeed he did for a time believe: but afterwards by the bellowing of the Oxen within, answering their Fellows without, *Hercules* entered the Rock, and finding the Thief *Cacus* there with his Oxen, he killed him: by reason of which murder, he was brought before *Evander*: and after a while known to be the *Hercules* of whom the Prophetess *Garmentia* had foretold unto *Evander*, that he should be a God; whereupon *Evander* presently saluted him by the name of *Hercules* the Son of *Jupiter*, and in honour of him, caused an Altar to be built there in that place: upon which yearly was to be offered up an Heifer which had never born Yoke; and that this Sacrifice might be had in the more esteem, two Noblemen well stricken in Years, and of good repute among the Romans, one of them being called *Potitius*, and the other *Pinarus*, were appointed as the Priests to perform these Sacrifices; from whom ever after *Hercules* his Priests were called *Potitii* and *Pinarii*. Where by the way we must observe that *Pinarus* was not the Sirname of this Nobleman, but a name added unto him, intimating his and his Successors punishment, for not coming soon enough according to the time appointed by *Hercules*. For as *n* divers Writers testify, the entrails of the Beast were almost eaten up by the family of *Potitius*, before *Pinarus* and his family came; and in punishment of their negligence, *Hercules* enjoined the *Pinarii* never after to eat of the entrails, giving them this name *Pinarii* at that time, from the Greek word *πεινα*, which signifieth Hunger.

n Ser. Æn.

C A P.

C A P. 4.

De Fratribus Arvalibus.

THis College, or company of Roman Priests, may be englisht the *Arval fraternity*; the number of them being twelve, eleven of them natural brothers, sons to *Acca Laurentia*, *Romulus* his Foster-mother; ^{o Feneft. de Sacerd. c. 3.} for which respect *Romulus* yielded himself her adopted son, instituting this Order in the honour of *Ceres* and *Bacchus*, for the plenty of Wine and Corn, unto whom they did offer up certain sacrifices called *Ambaruales hostia*, *quod antequam mactarentur ter circum arva ducebantur*, according to that of *Virg. Georg. Terq; novas circum felix eat hostia fruges*, that they being therewith appeased, might the willinger cause the earth to fructify, and added himself to the former eleven, as the twelfth Priest, or brother, to help in the performance of this publick Sacrifice. Moreover, besides the performance of this Sacrifice, these twelve were appointed *Arbitrators*, or Judges to decide Controversies concerning Land-marks, and bounds of the field, from whence they took their name *fratres aruales*. Their Sacerdotal Ornament, was a Garland of Wheat bound up with a white ribband, this being, as *p Pliny* writeth, the first Crown or Garland among ^{p Plin. l. 17. c. 2.} the Romans.

Hospin. de orig. Monach. c. 10.

C A P. 5.

De Sexaginta Curionibus.

After that *Romulus* had divided the whole Body of the Romans into three Tribes, or Wards, and subdivided those three Wards into thirty Parishes, called *Curia*, he ordained out of each *Curia* two parish-Priests or Curats, called *Curiones*, or *Flamines Curiales*; which were publickly to offer up sacrifice in the behalf of the people. Neither was every one equally capable of this

q Dion. Hal.
l. 2.

r Diod. ibid.

honour of Priesthood, q but he was to be at the least fifty years old, of a life unspotted, and a body unmaimed. And over all these there was one which had chief rule, and therefore was called *Curio maximus*, the Bishop or chief Prelat; and these Sacrifices were called *Curtonia*. r Their Sacrifice being ended, each Parish had a Feast in a common Hall built for that purpose; it was called *Domus Curialis*, and sometimes *Curia*.

CAP. 6.

De Auguribus, & eorum Collegio.

Ovid trist. l. 1.
Eleg. 2.

AMongst other kinds of Foretellers, we read of three principally used in former time, named *Aruspices*, *Auspices*, and *Augures*: all which we english Soothsayers, though the Latin words do import a main difference, worth our observation; all are alluded unto by Ovid.

*Hoc mihi non ovium fibra tonitrusve sinistri,
Linguave servata pennave dixit avis.*

r Fr. Sylv. in
orat. pro Clu-
entio.

r Pomp. La-
rus cap. de
Augur.

The *Aruspices* did divine or foretel things to come, by beholding the entrails of Beasts sacrificed; whence they had their name, *ab aras inspiciendo*, from beholding the Altars. The *Auspices* did foretel things by beholding the flight of Birds: so that *Auspices* are said, *quasi avis pices*, *ab aves aspiciendo*. The *Augures* did divine from hearing the chatting or the crowing of Birds; whence they are called *Augures*, *ab avium garritu*, from the chirping and chatting of Birds. These two last kinds of Soothsaying, have occasioned these and the like phrases, *bonis avibus*, or *Auspiciis*, with good luck, *malis avibus*, i. e. with ill luck; and because they would begin nothing *inauspicio*, i. e. without the counsel of the *Augures*; hence *Auspiciari rem* hath been translated to begin a matter. The College of the *Augures* at Rome, was first appointed by n *Romulus* himself, being very expert in Soothsaying, there being at the first but three, namely one of each Tribe; (the word *Augur* being not taken in his

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own proper fence and signification above mentioned : but generally, by the trope *Senechdoche*, signifying all kinds and sorts of divining whatsoever, whether it were by observing the entrails of Beasts, the flying, screeching, and chatting of Birds, or thundring or lightning in the Heaven, or marking the rebounding of crums cast unto Birds, (which kind of divining was called *Tripudium*.) *x* *Servius* *x* *Rosin. ant. 1.3.c.8.*
Tullius the sixth Roman King, when he divided Rome into four local Tribes, *i. e.* Regions, or Quarters ; then did he add the fourth *Augur*, all of them being elected out of the *Patricii*, or the Nobility of Rome. *y* In process of *y* *Rosin. ib.*
time *Quintus*, and *Census Egulinus* being chosen *Tribuni plebis*, *i. e.* Protectors of the Commons, obtained, that five other *Augures* should be chosen out of the Commonalty, and added unto the former four : at which time the Senate decreed, that the College of *Augures* should never exceed the number of nine. *z* Notwithstanding *Sella* *z* *Rosin. ib.*
being *Dictator*, added six more, insomuch that their College increased to the number of 15 ; the eldest of which was called * *Magister Collegii*, the Master, or *Rektor* of the * *Alex. Gen. 1.5.c.19.*
College. The *Augures* excelled other Priests, in *b* this *b* *Alex. ib.*
respect, because if any of them had been convinced of any hainous crime, he did not lose his Office ; neither was any other subrogated into his room, although the Roman custom was, that if any other Priest had committed any notorious offence, he should presently be discharged of his Office, and another chosen in his place. *c* The manner how the *Augur* did observe, was this : He sat upon *c* *Pomp. Latun. de Aug.*
a Castle, or Tower, the air being clear and fair, without clouds or rain, holding a crooked Staff (called in Latine *Lituus*) in his hand ; where sitting in his soothsaying Robe called *Lana*, and in Greek *χλαῖνα παρὰ τὸ χλαῖνειν à calefaciendo*, from heating, because it was well lined within, being garded on the outside with purple and crimson Gards, having his head covered, and his face turned toward the East, so that his back was westward, his right side southward, and his left northward. Being thus placed

plac'd, he quarter'd out with his crooked staff the heaven into certain *templa*, *id est*, regions or places, observing in what region the birds did appear : then killing his sacrifice, and offering up certain Prayers called *Effata*, he proceeded in manner as followeth. But first, suppose we for our better understanding hereof, that now the *Augures* were to resolve the people, whether the Gods would assent that *Numa Pompilius* should be King. The *Augur* having done as above is shewed, his *Litum* being in his left hand, he reached forth his right hand, putting it upon *Numa Pompilius* his head, using this form of words, *Jupiter pater, si fas sit Numam Pompilium, cujus ego caput teneo, regem Romæ esse, fac uti nobis signa certa ac clara sint inter eos fines quos feci, i.e.* If it be lawful for this *Numa Pompilius*, whose head I hold, to be K. of Rome, shew some manifest tokens within these regions or quarters, which I have described. Then if he observed lucky signs and tokens, he presently pronounced *Numa Pompilius* King of Rome, if he perceived unlucky tokens, then did he *obnunciare*, or gainsay, and shew that the matter proposed was not pleasing to the Gods. Where by the way we must note, that nothing was confirmed by the *Augures* without the appearance of two lucky tokens one after another, neither was any thing gainsaid by the appearance of the only evil token. The distinctions of the soothsayings have been taken, some from the event, and thence are they called *prospæra*, lucky, or *adversa*, unlucky ; some from the manner of appearing, *d* and that was either wished, being call'd therefore *impetrativa* ; or unwished, called *oblativa* ; some from the diversity of things which offered themselves in time of divining, and so there were five distinct sorts : the first was by the observing of lightning and thunder from Heaven, the second from the flying and chatting of birds ; the third from bread cast to pullets or little chickens ; the fourth from four-footed beasts, which either should cross the way, or appear in some unaccustomed place ; the fifth from those casualties whereby the gods

d Serv. Ær.
lib. 8.

Gods do make their anger appear unto us. Of this sort are those Voies which we hear we know not whence (as *e Cadmus* heard, when he overcame the Serpent) the falling of Salt towards us at the table, the shedding of Wine upon our cloaths; from which casualties and the like, the *Augures* would pronounce either good Fortune or bad to ensue. And these Tokens were therefore called *Dira*, because thereby *Dei ira nobis innotescit*, the Gods anger is made known unto us. Now the things that in divining-time appeared on the left hand, were commonly Tokens of good luck, because the givers right hand in bestowing a benefit, is opposite to the receivers left hand. Whence *sinistrum*, though in humane Affairs it signifies as much as Unlucky, yet in those holy Rites of divining, *sinistrum* is taken in a contrary sense, as *Avis sinistra*, good luck; *Intonuit laevum*, it hath thundred luckily, we shall have good success; and it is said, *à sinendo*, because the Gods thereby do suffer us to proceed in our proposed Projects. And therefore *Tully* saith, 1. *de divinatione*, *à sinistra cornice raturum, & firmum Augurium fieri*; and in the Law of the 12 Tables it is said, *Ave sinistra populi magister esto*. *g g* Lips. Elect. The *Grecians* from hence, in the judgment of *Lipsius*, have called the left hand *ἀριστερὰν* from *ἀριστερὸν* signifying best.

Vox subito audita est neque erat cognoscere promptum Unde, sed audita est.
Ovid. Met. l. 3. fab. 1.

ff Serv. Ænei. lib. 2.

g g Lips. Elect. lib. 2. cap. 2.

CAP. 7.

De Tripudiis & Pullariis.

THIS kind of conjecturing is called *auspicium coaction*, quoniam necesse erat offa objecta cadere frustum ex pulli ore, cum pascitur. The word *h Tripudium* is used by a syn-copation for *terripudium*, which is as much as *terripavium*, id est, a dancing or rebounding of any thing upon the ground: for *pavire* is the same with *ferire*. * Others say, *Tripudium quasi tertio pedum*. It is here taken for the divining, or conjecturing of Good or Evil to come by the rebounding of Crumbs cast to Chicken in a coop or pen: whence the *Augur* from these Pullets or Chicken was called:

b Cic. de divinatione. nat. lib. 1.

* *Humbert in l. 6. Ep. fam.*

z Alex. Gen.
dier. l. 1. c. 29.

k Alex. ibid.

led *Pullaris*, id est, a Bird-Prophet. i The manner in observing was this : as often as by this kind of conjecturing they desired to know the Gods pleasure concerning the enterprising of any matter, early in the morning those that were skilful in this kind of observation, repaired unto the place where the Chicken were kept, where silence being commanded, and the Coop opened, they cast crumbs of bread to the Chicken : now if the Chicken either came slowly, or not at all unto the bread, or if they walked up and down by it not touching it, then was it a token that the matter to be enterprized was displeasing unto the Gods : but if contrarily the Chicken did hastily leap out of the Coop, and eat so greedily the crumbs, that some should fall out of their mouths again, then the *Pullarius*, that is, the *Augur*, pronounced that it was well-pleasing unto the Gods, and encouraged the enterprising of what they had intended chearfull : and this was called *Tripudium solistimum*. This kind of conjecturing may seem to have its original from the *Lycians*, k who as often as they desired to foreknow the success of any enterprize, they went unto the Fountain dedicated unto *Apollo*, into which they cast baits for the Fish : now if the Fishes did eat them, it did betide good luck ; if otherwise they neglected the baits, then did it betoken some evil event.

CAP. 8.

De Aruspibus, Aruspicina, & Extispicino.

l Senec. Oed.
Act. 1. scen. 2.

THIS kind of Soothsayers, as they were called *Aruspices*, ab *aras aspiciendo*, from beholding the Beast upon the Alter ; so were they called *Extispices*, ab *extra aspiciendo*, from beholding the bowels or entrails of the Beast, called in Latine *Extra*. In this kind of Soothsaying, the *Aruspex* observed the manner as followeth ; first, l whether the Beast to be sacrificed came unto the Alter willingly, without plucking and hailing ; whether he died without much struggling, or lowd bellowing, at one blow or

or many; whether any unlucky object were seen, or heard by them whilst they were sacrificing. Again, after the beast was slain, then would they observe whether the bowels were of an unnatural colour, whether they were not ulcerous, exsiccate or impostumated : moreover they would divide the bowels into two parts, the one they would call *partem familiarem*, from whence they would foretel what should befall themselves and their friends ; the other they would call *partem hostilem* ; whence they gathered predictions touching their enemies. Hence *Manto* in *m Seneca* describing the entrails of his killed Sa- *m Cel. Act.* crifice, saith, *Hostile valido robore insurgit latus*, meaning 2. scen. 2. by *hostile latus*, *partem hostilem*. Afterward when the Sa- crifice was to be burned, they considered whether the flame of the fire was smoaky, whether the smoak rolled and tumbled in the air, whether it were of any continu- ance or no : for all these were unfortunate tokens, as the contrary did betoken a good and fortunate issue to their designments. These last which observed the fire and smoke were called by a more peculiar name *Capnomantes*, smoak-Augures, from the Greek word *καπνός* signifying smoak, and *μαντής* *idest*, *vates*, or a Sooth-sayer. The first instructions that the *Romans* received were from the *Hetrusci*, who (as they themselves say) received their knowledge from a little Boy, which they named *Tages*, the History being thus ; *n* When the *Hetrusci* were plow- *n Cic. de divi-* ing their Lands, upon a sudden up started this *Tages* out *nat. Indigenæ* of one of the Furrows, using divers speeches unto the *dixere Tagem,* plow-men : but they being much affrighted at this sud- *qui primus* den and strange vision, began with a loud cry to lift up *Hetruscum* their voices ; upon occasion whereof many other people *Edocuit gen-* flocked thither, where he gave many good instructions *tem casus ape-* concerning this kind of Soothsaying, which were pre- *rare futuros.* sently recorded in Books, and practised afterward by the *Ovid. Met.* *lib. ult.* *Hetrusci.*

H

CAP.

CAP. 9.

De Flaminibus.

o Rosin. ant.
l. 3. c. 15.
p Rex Anius,
Rex idem ho-
minum Phœ-
big; Sacerdos.
Virg.

THE Mitre or Head-ornament which these Priests did wear, was called in old time o *Flama*, whence the Priests took their names *Flamines*. The p custom amongst the Grecians, as likewise afterwards amongst the Romans was, that the King should as well perform Ceremonies and holy Rights of Religion, as civil business. But *Numa Pompilius* perceiving that foreign Wars did oftentimes occasion the Kings absence; insomuch that those Religious Ceremonies which he himself personally should perform, were of necessity sometimes neglected, hereupon he ordained out of the *Patricii* three Priests to perform that divine Service unto *Jupiter*, *Mars* and *Romulus*, which he himself otherwise ought to have performed, calling the first *Flamen Dialis*, the other *Flamen Martialis*, and the last *Flamen Quirinalis*, from *Romulus* which was often called *Quirinus*.

*Sive quod hasta quiris prisca est dicta Sabinis,
Bellicus at telo venit in astra Deus.*

*Sive suo regi nomen posuere Quirites,
Seu quia Romanis junxerat ille Cures.*

In process of time twelve others chosen from the Commons were added to these, but with this note of distinction, that the three first were had in great esteem, and were called *Flamines Majores*, High-Priests; the other of less note, called *Flamines minores*, Inferior Priests; the chief of all was the *Flamen Dialis*, *Jupiters* High-Priest. And whereas every one did wear a certain Bonnet in form of a Mitre, which sometimes was called *Pileum*, sometimes (by the figure *Synechdoche*) *Apex* (whereas *Apex* doth properly signify only the top of the Bonnet) q none might were *Albo-galerum*, i. e. a white Mitre, but only *Jupiters* Priest, and that was to be made of white Sheepskin, after the Sheep had been sacrificed. Whatsoever Malefactor could escape unto this Priest, he should not be punished

q Alex. Gen.
dier. l. 6. c. 12.

punished that day. None was eligible into this Office, but he that was married; neither was it lawful for him to marry twice, but if his Wife died *Flaminio abibat*, i. e. he resigned his sacerdotal Office. To him was permitted a rich Robe of State, and a Curule Chair; none might fetch Fire out of his House, unless it were to perform some Sacrifice therewith, & none might barbe or pole him but a free Man, and that with brazen Scissers. Many other Ceremonies there were which concerned this *Flamen*, as likewise Time added many other *Flamines*, namely seven *Feneft. de* ry God one; yea sometimes those threescore Parish-Priests *sacerd. c. 5.* which formerly were called *Curiones*, were called *Flamines Curiales*, and divers Emperors after their death had also their *Flamines*. & Moreover we must note that those Priests Wives were called *Flaminice*; Their Ministers (for they were wont when they went to Sacrifice, to take a Boy or Maid with them) *Flaminii*, or *Flaminie*, and the chief *Flamen's* dwelling-House were called *Aedes Flaminea*, or *Flaminia*. But as it seemeth probable, *Numa Pompilius*, and so the other Kings succeeding him, did still reserve their Right and Authority in holy matters so far, that they would instruct other inferior Priests, yea and specially perform some special Sacrifices themselves: whereupon after that the Kings Authority was abrogated amongst them, then that these Sacrifices might be continued, they chose a certain Priest, which they preferred before the *Flamen Dialis*, but judged him inferior to the *Pontifex maximus*, or Arch-Pontiff, and him they called *Rex sacrificulus*, and *Rex sacrorum*, the King-Priest. To him once every Year the Vestal Nuns repaired, and used this form of words, *n Vigilasne, Rex? Vigila. King* *serv. in. Æn. 10.* art thou awake? awake. For unto him it did belong to bid Holy-days, and to provide all things necessary for publick Sacrifices. He was to instruct those that fought unto him, the causes of the Holy-days, and tell them what was lawful and unlawful every Month; and upon the fifth of the *Ides* of *January* he sacrificed a *Ram* to *Janus*.

He was likewise wont to offer up a Sacrifice in the *Comitium* or great Hall of Justice, which being finished, he ran as fast as he could out of the Market-place without delay. His Wife was called *Regina sacrorum*, the Queen-Priestess, and was wont upon the Kalends of every Month to sacrifice a Porker, or a Lamb in her place, in the honour of *Juno*.

CAP. 10.

De Marte, sive Mavorte, & Salus Palatinis Marti dicatis.

M*Ars* otherwise called *Mavors*, by the figure *Epen-thesis*, as we say *Induperator* for *Imperator*, was reputed the God of War, and so *Metonymicōs* is used for War, as *vario Marte pugnatum est*, the battel was doubtful; *proprio Marte* by ones own strength and labour. He was the Son of *Juno* only, without company of her Husband: for when *Juno* was greatly displeased with herself, that *Jupiter* by striking his Head, without the company of a Woman did bring forth the Goddess *Minerva*, she by the Counsel of the Goddess *Flora* touched a certain Flower in the field of *Olenius*, by vertue whereof she immediately conceived the God *Mars*. This God, by reason of his dominion in War, the *Romans* painted fiery, sometimes in his Chariot, sometimes on Horseback, with a Javelin in one hand, and a Scourge in the other. In old Coyns there was sometimes the picture of a Cock joyned with him, to shew the Vigilancy and Carefulness that Souldiers are to use. He was called *x Gradius* à *gradiendo*, from marching in battel against his Enemies. He had a Temple without the City, whence he was called *Extramuraneus*. *y* Near unto this Temple, without the Gate *Capena*, did lie a Stone of great note, which upon great droughts the People would bring into the City, and presently Rain would follow; whereupon it was called the Rainstone, *Lapis manalis*, à *manando*. *Numa Pompilius* in the honour of *Mars*, surnamed *Gradius*, ordained twelve dancing

a Rosin. aet.
l. 2. c. 10.

y Rosin. ibid.

dancing Priests, called *Salii* à *z saliendo* from dancing, which number afterward we find to have been doubled by *Tullus Hostilius*, in the War against *Fidena*, a Town of the Sabines. The former twelve being called *Salii Palatini* from the Palatine Mount, where they did begin their maul-risk: the other *Collini*, from the Hill where their Chappel stood; *a* and sometimes *Quirinales*: and sometimes *Ago-*
nales: so that the whole Colledge contained 24 Priests. *b* The occasion of their first institution was this; Upon a certain time, in the reign of *Numa*, the Plague, or some other contagious Sickness was very hot among the *Romans*, insomuch that no Sacrifice or holy Offering could remove it: at that time a certain brazen Target or Scutcheon, called in Latine *anea pelta*, or *ancile*, big at both ends, but cut like an half Moon on each side, fell from Heaven into *Numa* his hands, with a certain voice promising all Health unto *Rome*, so long as that brazen Target could be kept safe. Whereupon *Mamurius* a cunning Workman, by the appointment of *Numa*, made eleven other *Ancilia* so like the first, that neither could be known from the other (to the intent that if any should be so wicked minded as to steal it, he might fail of his purpose by mistaking one for another.) These 12 Priests had the custody and keeping of them committed to their charge, and in the month of *March*, every year they apparelled themselves with a party-coloured Coat, called *tunica versicolor*, girt close to their body with a Belt, or Sword-girdle, and a Breast-plate of Harnefs, called *aneum tegmen*, upon that and a robe of Estate, called *trabea*, clapsed about them uppermost of all. Upon their Heads they did wear *apices*, i.e. Caps much like unto the *Persian* Bonnets called in Greek *κρυμνός*, or *πίραξι*. They did somewhat resemble our Head-pieces in War, made close unto the Head, with a crest of Cloath upon the top, whence some have called them *Galeas*. They being thus apparelled, danced about the *Forum* or Market-place, and the Capitol, with short Swords by their side, a Javelin in their right hand, and their *ancile* in the

a Plutarch. in Num. 1.

a Dion. Hal. lib. 2.

b Plutarch in Numa.

c Dion. Hal. lib. 2.

d Horat. l. i.
Ode 37.

the other ; using certain Songs, either of the Gods, and those they called *Janualii*, *Junonii*, and *Minirvii* ; or of Men, and those they called *Axamenta*, because in those Songs they did *exare*, i. e. nominate and call upon the names of some well deserving Men ; as *Mamurius* which made those eleven Scutchions, was often called upon in those Songs. Upon their festival days they had excess of Cheer, whence *d* Horace hath used *Saliares dapes*, to signify dainty fare.

CAP. II.

De Fœcialibus, & Patre patrato.

e Pomp. Læ-
tus de sacer.
f Dion. Hal.
lib. 2.

g Serv. Æn.
lib. 2.

h Vid. Eras-
Adag.

THESE *Fœciales* were Officers at Arms, or Heralds, to denounce War, or proclaim Peace, appointed thereunto at first *e* by *Numa Pompilius*. *f* The chief part of their Office was to dissuade the *Romans* from molesting any confederate Nation, with unjust War : and if any confederate Nation did offer Injury unto the *Roman* People, then did these *Fœciales* go as Embassadors unto them, perswading and exhorting them to yield the *Romans* their Right : but if they continued thirty days obstinate, refusing to yield to that which should be just and right, then did they presently denounce War against them, casting forth a Dart in token thereof ; which Denunciation was *g* called *Clarigatio*, à *clara voce qua utebantur Fœciales*. Others are of opinion, that whensoever War was denounced, this Herald at Arms should *h* turn loose a Ram unto their Enemies borders ; signifying thereby, that their fields should shortly become pasture for the *Romans* : from which custom we say of one that challengeth another into the field, *Arietem emisit*. Again, if the *Imperator*, or Lord-General, had done ought against his Oath, these *Fœciales* by their Sacrifice did avert the wrath of the Gods from him. The chiefest of them was called *Pater-patratus*, a perfect Father : for he only could be *Pater-patratus*, which had both Children of his own, and his Father also alive. They were

were called *Fœciales*, à *fœdere faciendo*, from making a League or Peace between Nations. This League which we in Latine do call *Fœdus*, the Romans in old time did *Pighius* Se- call *Fides*, as *Ennius* and *Pighius* witness; whence these *Fœciales* were termed also *Fidei Flamines*. prim. l. 1.

C A P. 12.

De Duumviris, & Decemviris, & Quindecem viris, Sacris faciendis, item de Sibyllis.

THIS Priesthood had its first institution from *Tarquinus Superbus*, whose Office was as well to expound as to keep the Oracles of those ten Prophetesses so famous throughout the World, called *Sybilla*. Concerning whom *k Munster* hath these words: In times past there came a strange Woman to *Tarquinius* the King, offering nine Books full of the *Sibylline* Oracles to be sold: but *Tarquinius* thinking the Books too dear, refused to buy them; the Woman departing, burned three of these Books and came the second time unto *Tarquinius*, demanding as much for those six Books, as formerly she had done for the nine; *Tarquinius* began to deride her, whereat the Woman departed, and burned three more, returning again unto *Tarquinius*, and asking as much for the three left, as she asked at the first for all nine. Then began *Tarquinius* more seriously to bethink himself thereof, and sent for his *Augures*, asking counsel and advice of them. And they understood, by certain signs observed, that the King had refused some special Goodness sent from the Gods; and for the Books that remained, they advised that the Woman should have what she asked. As soon as the Woman had delivered her Books, she presently vanished, and was never seen again; only warning them, to keep the Books as safe as possible they could. For the safe keeping of these *Tarquinius* chose two of the Noblemen, or *Patricii*, calling them *Duumviri*, appointing them, as well by study to expound, as with

k Munst. in sua Cosmog. l. 2.

l Fenest. de
sacerd. c. 13.

m Serv. AEn.
lib. 6.

n Mun. in sua
Cosm. lib.

Credite me
vobis folium
recitare Si-
byllæ.

o Epist. l. 2.
epist. 1.

with care to keep those Oracles, In process of time, the People obtained, that ten should be appointed to this office, l five of them being chosen out of the Commons, and five out of the Nobles : and then they were called the *Decemviri*. Afterward by L. Sylla, as it is thought five more were added, so that they were then called the *Quindecimviri* : nay the number was increased by Sylla unto forty, m as *Servius* thinketh, but still called by the name of *Quindecimviri*. Of these Women that had the spirit of Prophecy, ten were very famous : the first was called *Perfica*, the second *Libyca*, the third *Delphica*, the fourth *Cumæa*, the fifth *Erythrea*, the sixth *Samæa*, the seventh *Cumana*, the eighth *Hellepontia*, the ninth *Phrygia*, the tenth *Tiburtina* : They all prophesied of the Incarnation of Christ. The place where these Books were kept, was within the Capitol under ground in a Chest of stone, where they remained safe, until the burning of the Capitol, at which time they also were burned. Notwithstanding many of the Prophecies have been known, partly by tradition, and partly being taken out of other copies in other Countries. One of the Prophecies concerning our Saviour Christ, was uttered by *Sibylla Delphica* in manner as followeth : n *Nascetur Propheta absque matris coitu ex utero ejus*, that is, There shall be a Prophet born without any copulation of the Mother, even out of her Womb. It was spoken at *Delphos*. All their Prophecies were of that certainty, that when we would aver any thing to be undoubtedly true, we use to say, it is *Sibyllæ folium*, as true as *Sibylla's* Oracles. The *Cumæa Sibylla* did write her Oracles at the mouth or entrance of her Cave in leaves of Trees, which the fierceness of the Wind did oftentimes so scatter, that they could hardly be brought in order again : infomuch that when we would shew the great difficulty of bringing things in order, we may use o *Politian* his words, *Laboriosius est quam Sibyllæ folia colligere*, it is easier to gather *Sibylla's* Leaves. This name *Sibylla* is not a proper name, but an appella-
tive,

tive, common to all Women endowed with the spirit of Prophecy, taking their denomination from $\rho \sigma \iota \delta \varsigma$, which is in the *Æolick* dialect the same that $\theta \epsilon \delta \varsigma$, God, and $\beta \epsilon \lambda \eta$, i. e. counsel, because they did open and declare the counsel and determination of God unto the People. It appertained also unto these *Quindecimviri* above mentioned to see that sacrifice, and divine service, that supplications and processions, expiations, and all ceremonial rites were duly performed.

p Serv. En. l. 6. σιδς enim Deos, non δεδς : & consilium non λεδην, sed βελην, appellabant. Æolico genere sermonis. Laet. de falsa religione, l. 1. c. 2.

C A P. 13.

De Bona Dea, & Sacris ejus.

THis Goddess which is so famous by the name of *Bona Dea*, is the Globe of the Earth : which is therefore termed *Bona Dea*, the good Goddess, because we reap so many good things from the Earth. She is called also *Ops*, the helping Goddess, *ab ope*, from help, because by her help we live. She is called *Fatua* and *Fauna*, i. e. the Goddess of speech, because young Children do never speak until they are able to go, and so have touched the Earth. The *Grecians* called her $\gamma \upsilon \nu \alpha \iota \mu \epsilon \iota \alpha$ $\theta \epsilon \alpha$ the female Goddess, because that no male might be admitted to her Sacrifices ; nay the very pictures of Men were at that time to be covered. The inner room where her Sacrifices were, was called $\tau \omicron \nu \gamma \upsilon \nu \alpha \iota \mu \epsilon \iota \omicron \nu$ the place for Womens assemblies. *q* Those that were chief in these Sacrifices, were the Vestal Nuns. This good Goddess was supposed to be the Wife of *Faunus*, and upon a time to have been taken drunk with Wine by him : for which fault *Faunus* was said to have beaten her to death with Rods of Myrtle-tree ; but afterward being sorry for that he had done, in amends he made her a Goddess, and as it were ever after detesting the Myrtle-tree, he hallowing all other herbs and flowers to be used in these Sacrifices, forbade the Myrtle-tree. Some say she was so chaste, that she was never seen by any Man but by her Husband ; and in respect of

q Cic. orat. de Arusp. responsis.

her chastity, the Myrtle-tree is forbid, because it was consecrated to *Venus*: but whereas in this sacrifice they used Wine, they called it not by the name of Wine, but Milk or Honey; whence they called the Vessel wherein the Wine was put *Amphoram mellariam*, i. e. the Honey-Vessel. This Sacrifice became very famous by reason of *Clodius*, who being in love with *Pompeia*, *Julius Cæsars* Wife, came unto these Sacrifices in Womens apparel, and was found out by *Aurelia*, *Julius Cæsars* Mother. This *Clodius* became so infamous for this, and other his adulterous Pranks, that he occasioned a common proverb amongst the *Romans*, *Clodius accusat Mæchos*, answerable to which our English Proverb is, One Thief accuseth another.

C A P. 14.

De Cybele, & Sacerdotibus ejus.

THE Goddess *Cybele*, or rather *Cybelle*, was in her infancy exposed unto wild Beasts, upon the Hill *Cybellus*; where she being nourished by the wild Beasts, afterward became a Woman of admirable beauty, and being found by a Shepherds Wife, was brought up by her as her own Child, and called *Cybelle*, from the Hill *Cybellus*. She excelled in natural Gifts, and was the first that used a Taber and Pipe, and Cymbals among the Greeks. Moreover she tenderly loved Children, and therefore was called *magna mater*; she was also called *Mater Deorum*, the Mother of the Gods;

Ipsa deum fertur genitrix Berecynthia. Virg.

She was called *Rhea à ῥέω*, to flow, because she doth flow and abound with all kind of Goodness. She was also named *Pessinuntia*, from the City *Pessinus* a Mart-town in *Phrygia*, where she had a Temple. Moreover, she was called *Berecynthia*, from the Hill *Berecynthus* in *Phrygia*, where she was worshipped. Her Priests were called *s Galli*, and their chief Governour *Archi-Gallus*; they took their name from a certain River in *Phrygia*, called *Gallus*; of which

s Pomp. Lat.
de sacerd.

which whosoever drank, he became so mad, that he would presently geld himself, (as in truth all her Priests were enjoyned to geld themselves with a fish shell) the original of which custom is rendred thus : *Cybelle* loved a young Man of *Phrygia* called *Atys*, and him she appointed chief Overseer of her Sacrifice, upon condition that he would keep himself chaste perpetually : But he not long after deflowred a Nymph, for which fact *Cybelle* bereft him of his Wits and Understanding, so that he in his madness did geld himself, and would have killed himself also, & had not the Gods in their Commiseration towards him, turned him into a Pine-tree. In remembrance of him ever after, her Priests were gelded. Every year the *Prators* did sacrifice unto this Goddess. But the performance of the holy and religious Rites at that time did belong unto a *Phrygian* Man and *Phrygian* Woman, chosen for that purpose : Which according to the manner of their country being apparelled with a party-coloured Garment, called in Latine *Synthesis*, or *Amictus variegatus*, and carrying the Picture of their Goddess about with them in the streets, they struck their breast with their hands, keeping tune with the Tabers, Pipes, and Cymbals, which other People followed plaid upon. The Priests were also called *Corybantes*, from one *Corybantus*, which was one of her first attendants ; and hereupon we call the Cymbal *Ara Corybantia*. In this manner dancing about the streets, they begged Mony of the People whom they met ; and hence were they named *Cybelle* her Collectors, or her *Circulatores*, id est, Juglers. Some called them $\mu\eta\tau\rho\acute{\alpha}\gamma\eta\tau\alpha\iota$ from $\mu\acute{\eta}\tau\eta\rho$, which in this place signifieth *Cybelle*, called the great mother, and $\acute{\alpha}\gamma\gamma\upsilon\rho\tau\iota\varsigma$, a beggar or gatherer of Alms. " Others have called them *Mitricia* : But by what name soever they were called, the place was so infamous by reason of their Drunkenness, and Incivility used at these times, that when they would point out a notorious naughty fellow, they would call him *circulatore* *Cybelleium*, *Cy-*

t Cybellius
Atys Exuit
hac hominem
truncq; indu-
ruit illo.
Ovid. Met.

" *Rosin. ant.*
l. 3. c. 27.

belle her Jugler. Neither was it lawful for any free-born to undertake that Office.

C A P. 15.

De Collegio Pontificum, & Pontifice Maximo.

x Plutarch in
Numa.

y Feneft. de
sacerd.

z Roſin. ant.
l. 3. c. 22.

THIS word *Pontifex* is commonly translated a Bishop or Prelate, being called *Pontifices* in Latine, as also Pontifes in English, from one part of their office, which was to have the oversight of a great wooden bridge, called in Latine *Pons sublicius*, being so great, that Carts and waines might pass over it, having no arches to uphold it, but only great Piles and Posts of Wood: x and that which is most remarkable in it, was that it was joyned together only with wooden pins, without any iron at all. Others are of opinion, that they were termed *Pontifices quasi Potifices*, from *potis* and *facio*, of which opinion *Lucan* seemeth to be, according to that, *Pontifices sacri quibus est commissa potestas*. Concerning the y number of them, only four were appointed by *Numa*, all which then were to be chosen out of the *Patricii*: afterward four more were added out of the Commons. These were called *Pontifices majores*, or chief Pontifes, to distinguish them from seven other, which afterwads *Sylla* added, and z called them *Pontifices minores*, inferiour Pontifes. The whole company of them was called the Colledge of Pontifes. This Colledge was privileged from all Allegiance, being not bound to render account of their doings, either to the Senate or Commonalty. They were to determine all questions concerning Religion, as well between their Priests as between private Men: they had authority to punish any inferiour Priest, if he either detracted or added unto those Religious Rites which were prescribed unto him. They had their Pontife, whom they called *Pontificem maximum*. These Pontifes were wont to exceed in their diet, insomuch that when the Romans would shew the greatness of a feast,

feast, they would say it was *Pontifica Cæna*, i. e. according to our English Phrase, a feast for an Abbot. *Cæna adjuicialis* is taken for the same, *a Lipsius* in the exposition of the latter Phrase taxeth the Printers negligence, and is of opinion, that it should have been printed *Cæna aditialis*, understanding hereby a solemn feast made by Magistrates *in aditu honoris*, at their entrance into their Office, and at their day of Inauguration.

CAP. 16.

De Epulonibus.

THE Pontifes in old time appointed three Men, whom they called *b Trium-viros Epulonum*, (from *Epulum* a feast) to have the oversight of the feasts made at Sacrifices; afterward by reason of two twice added, they were called first *Quinque-viri*, and at length *Septem-viri Epulonum*.

CAP. 17.

De Titiiis.

ANOTHER sort of religious Men there were, which lived in the Suburbs of the City, and practised Sooth-saying; they were called *c Titii* from the name of the Birds which they observed; which in Latine were called *Titie*.

CAP. 18.

De Virginibus Vestalibus.

NEAR unto *Castors* Temple, stood the religious House or Nunnery, dedicated to the Goddess *Vesta*: where at the first were four, after six Virgins, or Votaries elected, whose Office was chiefly to keep the sacred Fire; the extinction whereof proved ominous, and did portend some evil event shortly to happen. And therefore for their negligence herein, as for all other small faults, they being had into a dark corner, stripped naked, and

a Lib. 4.

magn. Rom.

c. 9.

b Lazijs de

Repub. Rom.

l. 3. cap.

c Pancirol. l.

rerum deper-

dit. c. de mo-

le Hadriani.

a

c Plutar. in
Numa.

d Suet. in Ju-
lio.

* Vid. sup. p.
14.

e Munst. in
sua Cosmog.
l. 2. c. 9.

a curtain drawn half way over them, the chief Pontiff scourged them : neither was it lawful to kindle the Fire once put out, with any other Fire, but from the Sunbeams : for which purpose they had certain Instruments named *εσχαφεία*, which were formed in the manner of a *pyramis*, but hollow ; so that the beams being collected within the circumference, and meeting in the *Vertex*, did easily kindle any cumbustable matter put into it ; but chiefly if the matter was of black colour ; because, as Philosophy teacheth, a dark colour doth congregate, or collect the beams, whereas whiteness doth disperse them. A second part of their Office was to work reconciliation between parties offended, as appeareth by *d Suetonius*, where we may read, that by their intercession *Sylla* was reconciled to *Cesar*. They were chosen into this place between the sixth and the eleventh year of their Age : and they were to remain in this Nunnery thirty years space, ten years to learn their Ceremonies and Mysteries, ten years to exercise them, and ten years to instruct others : within which space if they had suffered their Bodies to be defiled, they were to undergo that fearful Punishment * aforementioned. But these thirty years being expired, Marriage was lawful for them ; so that they laid aside their Scepters, their Fillets, and other their sacerdotal Ornaments. Notwithstanding those which did marry, in the end died fearful deaths : whereupon they chose rather to abstain commonly. The *Romans* had them in great honour, so that they never walked abroad, but with an Iron Scepter in their Hands, and whatsoever Malefactor met them (if the Nun would take her Oath it was by chance) he escaped Punishment. They were named *Vestals* from their Goddess *Vesta*, which word (as *e Munster* writeth) is derived from the Hebrew *Radix* signifying Fire. The eldest was called *Maxima Vestalis Virgo*, i. e. the Lady Priorefs, or chief Governess.

CAP. 19.

De veteram sacrificiis, & ritu sacrificandi.

WHatsoever was burnt or offered up unto the Gods upon an Altar, it had the name of a Sacrifice, and sometimes it was called *Victima*, quod *vincta ad aras stabat*, because the Beast to be Sacrificed stood bound unto the Altar; sometimes *Hostia*, from an obsolete verb *Hostio*, which is to strike, because certain under Officers called in Latine *Pope* (standing by the Altars, all their upper part naked, and a Laurel-Garland upon their Head) did *Hostiare victimam*, id est, strike down and kill the Sacrifice. Others are of opinion, that this name *Hostia* is taken from *Hostis* an Enemy, according to that of *Ovid*, *Hostibus à domitis, Hostia nomen habet*; because either before War, to procure the Gods favour, or after War, in token of thankfulness, they did *hostium ferire*, id est, offer up the Sacrifice. The second difference of Sacrifices hath been occasioned in respect of the time, and so they have called *pracidanea*, or *succidanea*, quasi *pracidanea* & *succidanea*. Those sacrifices which were offered up the day before any solemn Sacrifice, were called *pracidania hostia*, fore-sacrifices, as we English *præcursores*, a fore-runner: which fore-Sacrifices if by any token they found unlucky, then would they offer up a second Sacrifice which they termed *hostiam succidaneam*; and because these second Sacrifices were to be offered only instead of the other, when they were unlucky or faulty, hence hath *Plautus* used this Speech, *meum tergum stultitie tue subdes succidancum?* Must I be whipped for thy fault? The manner of Sacrificing was as followeth; Some certain days before any Sacrifice was to be performed, the Priest was wont to wash his whole Body, especially his Hands and Feet, which if he had not washed, the Sacrifice was accounted polluted: and alluding unto this Custom, we say, a Man doth

f Vid. Eras.
 Adag.

doth *Accedere ad rem illotis manibus*, or *illotis pedibus*, as often as he enterpriseth any business without due reverence or preparation thereunto.

μηδὲ ποτ' ἔξ ἡδὺς Διὶ λείβειν αἰδοπα οἶνον
χερσὶν ἀνίπτοιςιν. *Hesiod.* ἔργα καὶ ἡμέρ.

g Plutarch.
Numa.

h Serv. Ace.
lib. 1.

i Pancirol. l.
rerum deper-
dit. c. de sale
Ammoniaco.
k Textor. in
sua officina,
Sparge falsa
colla taurorum
mola. Sen. Oe-
dep. Act. 2.
scen. 2.

l Pancir. lib.
rerum deper-
dit. c. de Am-
moniaco sale.

m Media inter
cornua fundit.
Virg. Æneid.

Moreover, the Priest was to abstain from his Marriage-bed, as likewise from divers kinds of meats, and at the time of his going to Sacrifices, either himself or some inferiour Sexton going before him with a Rod or Wand in his hand (called *commentaculum*) g used this form of words unto the People, *Hoc age*, attend this you are about: which custom seemeth to have had its original from the *Grecians*; for before the time of Sacrifice, the *Grecian* Priest used almost the like speech unto his people, as *τίς τί δ' ἐ*, i. e. who it here? the people answered, *πολλὰ καὶ ἀγαθὰ*, i. e. many Men and good. After this preparation, then did the Priest, laying his hands upon the Altar, rehearse certain Prayers h unto the God *Janus*, and the Goddess *Vesta*, because the *Romans* were persuaded, that without their intercession they might not have access unto the other Gods: his Prayer being ended, then did he lay i upon the beasts head a little Corn, together with a Cake made of Meal and Salt, called in Latine *Mola*, k *Mola erat far tostum, sale aspersum*. From this ceremony the act of sacrificing hath been termed *Immolatio*. After this the Soothsayer drank Wine out of an Earthen or Woodden Chalice, called in Latine *Simpulum*, or *Simpuvium*. l It was in fashion much like our Ewers, when we pour water into the Bason. This Chalice was afterward carried about to all the people, that they also might *libare*, i. e. lightly taste thereof, which Rite hath been called *Libatio*. Now every one having tasted thereof, the rest of the Wine, with Frankincense mixt in it, was to be poured upon the Beasts head, m between the horns; one crying out with a loud voice, *Maesta est hostia*, i. e. *magis aucta*, more increased and made more pleasing unto the Gods, as *Virgil* saith, *Maeste nova*

virtute

virtute puer, i. e. O good Child, which increasest in virtue. And hence, even from this term, we may conjecture that the word *Macto*, which signifieth to kill, and sometimes to Sacrifice, hath had its original, because they did immediatly after that voice, *mactare hostium*, that is, slay the Sacrifice, and that was done in this manner ;
 * First the Priest did pluck off some of the Beasts hairs * Rosin. ant. l. 3. c. 33. between the Horns, and cast them into the fire, calling them his *prima libamina, i. e.* his first Offerings : Then did he, turning his face towards the East, draw a long crooked Knife upon the beasts back, commanding his under officers (which I called *Popæ*, others *Cultarii*, from their Knife ; *Victimarii*, from the Hoast ; and *Agones*, because they standing ready to give the stroak, often used this word *Agon*, for *Agone, i. e.* Must I to my work ?) to kill the Beast. The other people standing by, some did with vessels save the Blood, others did flay or skin the Beast, others washed it. Anon, some Soothsayer or Priest did observe the entrails, turning and winding them with a Knife, which was called *Secepsita à secando* : for he might not touch them with his hand, they conceiting that if the Sacrifice had proved polluted, his hand would then have perished. Now after the Soothsayer or Priest had sufficiently turned the entrails, and found no ill token therein, then did those *Popæ*, or Church-butchers, cut off from every bowel some portion, which after they had rolled in barley-meal, they sent it in baskets to the Priests, and the Priests taking it up into a broad charger or platter, called *discus*, or *lanx*, laid it upon the Altar, and burnt it, and
 * this was properly termed *litare*, or *reddere, i. e.* to satisfy by Sacrifice, or to pay the Sacrifice which was owing unto the Gods. After that the portion laid out for the Gods had been burnt, then did all the people repair unto a common Feast ; where as they were eating, they sung Hymns and Songs in the praise of their Gods, and playing on Cymbals, they danced about the Altars, intimating thereby, that there was no part of their Body,

* Joac. Camerac. pro Flac.

K

but

but should be employed in the service of their Gods. Now until all their Ceremonies and Mysteries were finished, it was not lawful for any to taste of this feast: insomuch that we since have used to check a glutton, or greedy-gut, which cannot abstain from his meat till Grace be said, in this manner, *Sacra haud immolata devorat.*

C A P. 20.

De Nuptiis, & nuptiarum renunciatione.

* Salmuth. in
Pancirol. l.
rerum deper-
dit. cap. de
nuptiis.

SEeing that Marriages and Burials have such dependence upon the Priests, it will not be amiss to conclude this Section with two Chapters, briefly opening the Ceremonies of both. Before we come unto the solemn Ceremonies used by the Romans in their Marriages, we will first shew the manner of their Contract, which were called by the Romans, * *Sponsalia à spondendo*, because in their Contracts each did promise other to live as Man and Wife. Now the manner of contracting was commonly thus: They did for the greater security, write down the form of the Contract upon Tables of Record, as appeareth by *Juvenal, Sat. 6.*

*Si tibi legitimis pactam, junctamq; tabellis
Non es amaturus.*

These Tables were also sealed with the Signets of certain Witnesses there present, who were termed from their act of sealing *Signatores*. Moreover, before they would begin the Ceremonies of their Contract, the Man procured a Soothsayer, and the Woman another, with whom first they would consult. Whence *Juvenal, Sat. 10.*

————— *Veniet cum signatoribus auspex.*

q Alex. Gen.
dier. l. 2.

The token or sign which these Soothsayers in time of observing accounted most fortunate, was a Crow: b *Ea enim cornicum societas est, ut ex duobus sociis altera extincta, vidua altera perpetuo maneat.* The Man also gave in token of good will, a ring unto the Woman, which she was to wear upon the next finger unto the little finger of the left hand,

hand, *c* because unto that finger alone, proceeded a cer- *c* Aul. Gel.
tain Artery from the heart. The word *Nuptia*, which sig-
nifieth marriage, had its derivation à *nubo*, *d* which Verb *d* Rosin. ant.
in old time signified to cover : the custom being, that the *l. 5. c. 37.*
Woman should be brought unto her Husband with a
e yellow Vail (called *Flammeum*) cast over her face. Again *e* Plin. l. 21.
because of the good success that *Romulus* and his follow- *c. 8.*
ers had in the violent taking away of the *Sabine* Women,
f they continued a custom, that the Man should come *f* Sig. de Jur.
and take away his Wife by a seeming violence, from the *Rom. l. 1. c. 9.*
lap or bosom of her Mother, or the next Kin. She being
thus taken away, her Husband did dissever and divide the
hair of her head with the top of a Spear, wherewith some
Fencer formerly had been killed. This Spear was called
by him *Hasta cælibaris*, *g* and the Ceremony did beto- *g* Salmuth in
ken, that nothing should dis-joyn them but such a Spear, *Panciro. lib.*
or such like violence. The next day after the marriage, *rerum de per-*
a solemn Feast was held, where all the Bride-mans and *dit. cap. de*
Bride-womans Friends met to make merry ; this Feast *nuptiis.*
they called *Repotia*. We must note, that *h* three manner *h* Boeth. Topi,
of ways a Woman became a Man's lawful Wife : *Usu*, *cor. 2. vid.*
Confarreatione, *Coemptione*. A Woman became a Mans law- *Coel. Rhod.*
ful Wife, *Usu*, *i. e.* by prescription or long possession, if that *l. 28. c. 17.*
she were wed with the consent of her Overseers, and so
did live with a Man, as with her lawful Husband, a
whole years space, *nullo interrupto usu*, *i. e.* *i* she being not *i* Sig. de jur.
absent from him three nights in the whole years: and some *Rom. l. 1. c. 9.*
have thought, that the counterfeit violence in taking
away the Maid from her Friends, was used only in this
kind of marriage. A Woman became a Man's Wife *confar-*
reatione, *i. e.* by certain solemnities used before a Pontiff,
or chief Bishop, when the Woman was given unto the
Man using a set form of words, ten Witnesses being pre-
sent, and a solemn Sacrifice being offered, at which the
couple married should eat of the same barley Cake which
formerly had been used in the Sacrifice. Which Sacri-
fice was termed, *d farre*, *confarreatio*, and the marriage

k Cic. in orat.
pro Muræn.

it self *Ferracia*, k and sometimes *Sacra*, simply ; the dissolution of this kind of marriage *Diffarreatio*. A Woman became a Man's Wife, *Coemptione*, i. e. by buying and selling, when the Woman did under a feigned form of sale buy her Husband, by giving him a piece of coin. *Veteri Romanorum lege, nubentes mulieres tres ad virum asses ferre solebant : atq; unum quidem, quem in manu tenebant, tan-*

l Sig. de jure
Rom. l. 1. c. 9.

quam emendi causa marito dare. l To these three some teach, that a fourth sort of marriage was in use among the Romans ; namely, when a Woman became a Mans Wife, *Sortitione*, by a kind of Lottery : and of this they say,

m Suet. in Tib.
c. 35.

n Cic. orat.
pro Muræn.
Item. Fr. Syl.
ibid.

m Sueton speaketh. n In that kind of marriage which was per *Coemptionem*, the Man was not named by his proper name, nor the Woman by hers, but the Man was named *Caius*, and the Woman *Caia*, in the memory of the chaste and happy marriage of *Caia Cecilia*, Wife to *Tarquinius Priscus* ; from whence sprang a custom among them, that the new married Wife, when she was brought home unto her Husbands house, was to use this Proverb, *Ubi tu Caius, ibi ego Caia*, by which word she signified, that she was now owner of her Husband's goods, as well as himself : and therefore *Erasmus* hath expounded that saying

o Cael. Rhod.
l. 28. c. 17.

p Hier. Ferari-
us in Phil. pic.
orat.

by these words, *Ut tu dominus, ita ego domina* : o And she that was thus married per *Coemptionem*, was properly called *Mater-familias*. p If any of these Ceremonies were omitted, then was the marriage termed *Nuptia innupta*, in which sense we call our enemies Gifts no Gifts, *Ἐχθρῶν ἄδωρα δῶρα*. These ceremonies being ended, towards night the Woman was brought home to her Husbands house with five Torches, signifying thereby the need which married persons have of five Gods, or Goddesses, i. e. *Jupiter, Juno, Venus, Suadela*, and *Diana* who oftentimes is called *Lucina*, the reason of the name being rendred by *Ovid*,

— *Dedit hac tibi nomina lucus,*

Aut quia principium tu Dea Lucis habes.

There are of opinion, who think that the use of these
Torches

Torches was not only to give light, but to represent the element of fire ; for no marriages were thought happy, which were not contracted *Sacramento ignis & aqua*, for which reason the custom likewise was, to besprinkle the new married Woman with water ; yea, they did both in the time of their contract touch water and fire provided for that purpose. The signification of this Ceremony some think to be thus ; The Fire because it is an active Element, to represent the Man ; the Water because it is passive, to represent the Woman. Others say, that in the community of these two Elements, was intimated the community between Man and Wife, of all other their goods and possessions, which was more fully declared in that fore-quoted Proverb used by the Wife, *Ubi tu Caius, ibi ego Caia*. The matter whereof these Torches were made, was a certain Tree, from which a pitchy liquor did issue ; it was called *Teda*, and hence have the Poets figuratively called both the Torches and the Wedding itself *Tedas*. When the Woman had been thus brought to the door, then did she anoint the posts of the door with Oil, *q* from which ceremony the Wife was called *uxor quasi unxor*. This ceremony of anointing being ended, the Brideman did lift her over the threshold, and so carried her in by a seeming force, because in modesty she would not seem to go without violence into that place, where she should lose her Maiden-head. At her carrying in, all the company did cry out with a loud voice, *Talassio, Talassio* : for which custom, *r Plutarch* alledgeth many occasions, this being one. Among those who ravished the Daughters of the *Sabines*, there were found some of the meaner and poorer sort, carrying away one of the fairest Women ; which being known, certain of the Citizens would have taken her from them ; but they began to cry out, that they carried her to *Talassius*, a Man well beloved among the Romans ; at which naming of *Talassius*, they suffered her to be carried away, themselves accompanying her, and often crying, *Talassio, Talassio*.

Pancirol. lib.
rerum deper-
dit. cap. de
Nuptiis.

q Serv. Æn.
l. 4.

r Plutar. vit.
Pompeii.

From

f Alex. Gen.
dier. l.2. c.5.
† Lipf. Elect.
l.1. c.17.

¶ Vid. F. Syl.
pro Cluent.

* Sig. de Jur.
Rom. l.1. c.6.

¶ Rosin. ant.
l.5. c.38.

From whence it hath been continued a custom among the Romans, ever at their marriages to sing *Talassio, Talassio*, as the Greeks did *Hymen, Hymenae*. From this custom of leading or bringing home of the new married Bride, cometh that comical phrase, *Ducere uxorem*, to marry a Wife. She being thus brought home, received the keys of her Husbands house, whereby was intimated, that the custody of all things in the house, was then committed unto her. § The marriage bed was called *Genialis lectus*, as we may suppose, *quasi genitalis*. † Sometimes it was called *Lectus adversus*, *quod hunc lectulum religiose servari mos fuit*, & in atrio collocari janua ex adverso, i. e. They placed this bed in the Court, directly opposite to their gate, keeping it as some religious monument or pledg of Matrimony. The next day after the marriage, the Bride-woman received gifts of her Friends, which the Lawyers term *Nuptialia dona*. ¶ But *Cicero* expoundeth these *Dona Nuptialia*, to be certain tokens; which the Husband sent to his Wife before the betrothing. If after the marriage any discontent had fallen out between the man and his wife, * then did they both repair to a certain Chappel, built in the honour of a certain goddess, called *Dea viri-placa*, à *viris placandis*. Whence after they had been a while there, they returned friends. We have thus seen the Rites and Ceremonies which the Romans used in their contracts and marriages; it would not be impertinent to annex the manner of their divorcements which upon just causes were permitted. x There were two manner of divorcements, the one between parties only contracted, the second between parties married. The first was properly called *Repudium*, in which the party suing for divorcement used this form of words, *Conditione tua non utar*. The second was called *Divortium*, wherein the party suing it, used these words, *Res tuas tibi habeto: vel res tuas tibi agito*. Both these kinds were termed *Matrimonii renunciationes*, renouncing or refusal of marriage. Where we must note, that instead of

of this verb *renunciare*, divers good Authors use this phrase, *Mittere*, or *Remittere nuncium* : as *C. Caesar Pompeia nuncium remisit*, *C. Caesar* hath divorced *Pompeia*. And alluding hereunto, y *Cicero* saith, *Virtuti nuncium* y Ep. fam. l. 5. *remisit*, i. e. he hath cast off all goodness, he hath even divorced vertue. Secondly, We must note, that this verb *Renuncio*, doth not only signify to renounce or to refuse, but many times in *Tully*, it signifieth to declare or pronounce a Magistrate elected, as *Renunciare Consulem, Praetorem*, &c. The reason why in matrimonial Contracts it signified to renounce or refuse, was, because in these Divorces they did sometimes send to their Wife, *per nuncium*, by a messenger, some bill or scrole of Paper, containing the causes of the divorce. Moreover we are to observe, that in these divorces, the Ceremonies were quite contrary to those Marriages ; the just causes being fore-signified to the Censors, the Marriage-tables were broken, the dowry restored, the Key of the house taken from the Woman, and she turned out of doors : all which Ceremonies are at large treated of by *Thomas Dempster*. l. 5. *Antiq. Rom.* c. 38.

C A P. 21.

Quo apparatu, quibusq; ceremoniis apud veteres defuncta corpora igni tradebantur.

THE Romans in ancient time, when they perceived a body dying, had such a custom, that the next of the kin should receive the last gasp of breath from the sick body into his mouth, as it were by the way of kissing him : (to shew thereby how loth and unwilling they were to be deprived of their friends) and likewise should close the eyes of the Party being deceased. Whence *Anna* said unto her sister *Dido* now dying,

——— *Extremus si quis super halitus errat*

z *Virg. En. 4.*

Ore legam———

And *Penelope* wishing that her Son *Telemachus* might outlive

live her self and his Father, writeth to her Husband in this manner. *Ille meos oculos comprimat, ille tuos.*

After the body had thus deceased, they kept it seven days unburied, washing the corps every day with hot water, and sometimes anointing it with Oil, hoping that if the Body were only in a slumber, and not quite dead, it might by these hot causes be revived.

Per calidos latices aliena undantia flammis

Expediunt, corpusq; lavant frigentis & unguunt.

In these seven days space, all the dead Mens Friends met together now and then, making a great out-cry or shout with their voices, hoping that if the dead Body had been only in a swoon or sleep, he might thereby be awaked. This action was termed *conclamatio*. Whence when we have done the best we can in a manner, and cannot effect it, we say proverbially *conclamatum est*, for this third conclamation or general out-cry (which was always upon the seventh day after the decease) was even the last refuge, at which if the Body did not revive, then was it carried to burial, being invested with such a Gown as the parties place or office formerly had required. Those who had the dressing, chesting, or imbalming of the dead corps, were called *Pollinctores*: After they had thus embalmed the corps, they placed it in a bed fast by the gate of the dead Man's house, with his face and heels outward toward the street: according to that of *Persius*;

———*Tandemq; beatulus alto*

Compositus lecto, crassiq; lutatus amomis,

In portam rigidos calces extendit———

Herewith accordeth *Homer*, speaking of *Patroclus* his Funeral;

Ὅς μοι ἐνὶ κλισίῃ δεδασμὸς ὄξείῃ χαλκῷ
κεῖται ἀνὰ πρόθυρον τετραμμένον———*id est,*
Qui mihi in tabernaculo confessus acuto are
Facet ad vestibulum conversus.

This Ceremony was properly called *corporis collocatio*: and fast by this bed, near the gate, also was erected an Altar,

tar, called in Latin *t Acerra*; upon which his Friends did every day offer Incense until the burial: The Gate on the outside was garnished with Cypress Branches, if the dead Man were of any wealth or note, for the poorer sort, by reason of the scarcity of the Tree, could use no such testimony of their Mourning.

u *Et non plebeios luctus testata cupressus.*

u Lucanus.

In the seven days space, certain Men were appointed to provide all things in readiness for the Funeral; which things were commonly sold in the *x* Temple of *Libitina*, from whence those Providers were termed *Libitinarii*, though sometimes this word *Libitinarium* doth

x Alex. Gen. dier. l. 3. c. 7.

signify as much as *capularis*, an old decrepit Man ready for the Grave. Upon the eighth day, a certain Crier in the manner of a Belman, went about the Town to call the People to the solemnization of the Fueral in this form of words; *Exequias y L. Tito L. Filio quibus est commodum ires. Jam tempus est. Ollus ex adibus effertur.*

y Rosin. ant. l. 5.

After the People had assembled themselves together, the Bed being covered with Purple, or other rich covering, the last conclamation being ended, a Trumpeter went before all the company, certain poor Women called *Præfice* following after, and singing Songs in the praise of the Party deceased: where we must note, that none but the better sort had a Trumpet founded before them; others had only a Pipe; z *Senatoribus & patriciis tuba, minoribus plebeiis tibia caneant siticines*, this word *Siticines*, signifying either a Trumpeter or Piper, because they did both *ad sitos*, i. e. *mortuos canere*. Again, except it were one of the Senators, or chief Citizens, he was not carried out upon a Bed, but in a Coffin upon a Bier. Those that carried this Bed, were the next of the Kin, so that it fell often among the Senators themselves to bear the Corps; and because the poorer sort were not able to undergo the charges of such Solemnities, thereupon were they buried commonly in the dusk of the Evening, and hence *à vespertino tempore*, those that carried

z Alex. Gen. dier. l. 3.

ed the corps were termed *vespa* or *vespillones*. In the burial of a Senator or chief Officer, certain waxen Images of all his Predecessors were carried before him upon long poles or spears, together with all the ensigns of honour which he deserved in his life-time. Moreover, if any Servants had been manumized by him, they accompanied the mourners lamenting for their masters death. After the corps, followed the dead mans children, the next of the kin, and other of his friends, *atrati*, i.e. in mourning apparel. From which act of following the corps, namely *à sequendo*, these funeral rites have been termed *Exequia*, as *Donat.* hath observed upon that of *Terence*, *Funus interim procedit, nos sequimur*; which rites, because they were performed as debts due unto the party deceased, hence were they also called *Iusta*. *Eo dicuntur iusta, quod jure mortuis factitari debent à vivis*. *Polyd. de invent. l. 6. c. 9.* The corps being thus brought unto their great Oratory called the *Rostra*, the next of the kin *laudabat* * *defunctum pro Rostris*, i. e. made a funeral Oration in the commendation principally of the party deceased, but touching the worthy acts also of those his Predecessors, whose images were there present. The Oration being ended, the corps was in old time carried home again in manner as it was brought forth.

* *Suet. C. Jul. Caesar, c. 6.*

Sedibus hunc referente suis & conde sepulchro.

But afterward by the law of the twelve tables, it was provided, that no man besides the Emperour and Vestal Nuns should be buried within the City, though some upon especial favour have obtained it. The manner of their burial was not by interring the Corps, as in former times it had been, but burning them in a fire, *b* the reason thereof being to prevent the cruelty of their enemies, who in a merciless revenge would at their conquests dig up the buried bodies, making even the dead also subjects of their implacable wrath. This fire before the burning was properly called *Pyra*: in the time that it burned, it was called *Rogus*; *c* *quod tunc temporis Rogari*

b *Salmuth. in Pancirol. lib rerum deperdit. de exequiis.*

c *Serv. Aen. 5.*

Rogari Jolerent Manes; after the burning, then was it called *Bustum*, *quasi beneustum*. This *Pyra* was alwaies built in form of a Tabernacle, as it is * above more at * Vid. sup. p. large to be seen; whither after the dead man had been ^{30.} brought, his friends were wont to cut off one of his fingers, which they would afterward bury with a second solemnity. The charges at funerals growing by this means to be doubled, the law of the 12 Tables provided in these words, *Homini mortuo ossa ne legito, &c.* that no mans finger should be cut off, except he died either in the war, or in a strange country. Where we must observe, that *lego* in this place doth signify as much as *adimo* or *aufero*, in which sense we call him *sacrilegum*, *qui legit*, i.e. *qui adimit & aufert sacra*. After the dead body had been laid upon the *Pyra*, then were his eyes opened again to shew him heaven, if it were possible, *d* and withall an half-penny was put in his mouth, they superstitiously conceiting that that half-penny was *naulum Charonis*, the pay of *Charon* the supposed ferry-man of Hell, who was to carry mens souls in his boat over the *Stygian Lake* after their decease. About this *Pyra* were first many boughs of Cypress-trees to hinder the evil scent of the corps to be burned. The dead body being thus laid upon the *Pyra*, the next of the kin turning his face averse from the *Pyra*, did kindle the fire with a torch: After this, commonly certain Fencers hired for this purpose did combat each with other, till one of them was killed, they were termed *bustuarii* from *bustum*. The blood of those that were slain, served instead of sacrifice to the infernal gods, which kind of sacrifice they termed *Inferiæ*. e *In-* e Servius. *feriæ sunt sacra mortuorum quæ inferis solvuntur*. Anon after the body had been burned, his nearest friends did gather up the ashes and bones, which being washed with milk and wine, were put into certain Pitchers called *urna*: whence this word *urna*, is often used by the Poets, to signifie a grave or Sepulcher, as

d Alex. Gen.
dier. l. 3.

— *Una requiescit in urna*: Ovid. Met. lib. 4.

L 2

Though

f Rosin. ant.

g Serv. in
Æn. 18. l. 1.
h Hub. e. n. Ci.
ep. ant. l. 4.

i Hier. Ferari-
us in Cic. orat.
Philip.

k Servius in
Æneid. l. 5.

l Antefig. in
Ter. Adelph.
Act. 4.

Though properly *sepulchrum* was in old time a vault or arched roof, f round about the Walls whereof were placed certain coffins called *loculi*, within which those former *urnæ* were laid up and kept, namely, two or three in each Coffin. Now these funeral Solemnities were commonly toward night, insomuch that they used Torches; these Torches they properly called g *funalia à funibus cera circumdatis*, unde & *funus dicitur*. h Others are of opinion, that *funus* is so said from the Greek word *φόνος*, signifying death or slaughter. The bones of the buried Body being thus gathered up, then did the Priest besprinkle the company with clean water thrice, and the eldest of the mourning Women called *Præsica*, with a loud voice pronounced this word *Ilicet*, thereby dismissing the company, (the word signifyeth as much as *Irelicet*;) Then presently did the company depart, taking their farewell of the dead Body in this form of words; *Vale, vale, vale; nos te ordine quo natura permiserit seque-* mur. If any of these Ceremonies had been omitted, i then was it termed *sepultura infsepulta*, in the same sense as *nuptia* formerly were termed *innupta*. The old and aged Men were invited, after the burial, to a feast, or funeral banquet, called *silicernium* k *quasi silicœnium*, i. e. *cœna supra silicem posita*, their custom being to eat that feast upon an altar of stone; and because this feast was only eaten at funerals, and by the elder sort, l hence figuratively this word *silicernium* doth sometimes signify an old Cripple ready for the grave. The poorer people, instead of a feast, received a dole or distribution of raw flesh: this dole was termed *Visceratio*. Moreover there was a potation, or drinking of wine after the burial, called *Murrhata*, or *Murrhina potio*, which, afterwards the Law of the 12 Tables for the avoiding of expences did prohibit, as likewise for the moderating of grief in the mourners, it did prohibit the use of this word *Lessum*, [*Neve lessum funeris ergo habento*] for that word was often ingeminated in their mourning as a doleful ejaculation, or note

of

of inward sorrow. This sorrowing or mourning was in some cases utterly prohibited, in others limited; *m* namely, an Infant dying before he was three years old, *m* Alex. Gen. should not be mourned for at all; because he had scarce- *dier. l. 3. c. 7.* ly yet entred into this life. Elder persons were to be mourned for so many days as they were years old. Wives were permitted to mourn for their Husbands (*Alexander* addeth, also Children for their Fathers) ten months, if they would, within which time the Widow could not marry another Husband without infamy and discredit, *Polyd. de Juv. l. 6. c. 9.* Here we may with *Revardus* observe a distinction between *Lugere* and *Elugere*; *Lugere* signifieth no more than to mourn some part of the time prescribed, *Elugere* to mourn the whole and full time.

LIB.



LIB. II. SECT. III.

Of the Roman Games.

C A P. I.

De ludis Megalensibus.

TH E Playes usually exhibited by the *Romans*, may be divided into three sorts; some were *Ludi sacri*, others *Honorarii*, others *Ludicri*. Those were termed *Sacri*, which were instituted immediately to the honour of the gods: Such were these that follow in their several Chapters. *Megalenses ludi*, they are called simply *Megalesia*, from the Greek word μέγας, signifying *Magnus*, because they were performed in the honour of *Cybelle*, called *Magna mater*: of which I have spoken formerly, and there also discovered the manner of this feast. Only here take notice of that which is not mentioned there, namely, that these Games began *pridie Nonas Aprilis*, i. e. on the fourth of *April*, and continued six dayes after: as appeareth by divers Authors, but more espically by *Ovid*, who could not easily be corrupted, *Oid. Fast. lib. 4*. He having spoken of the rising of the *Pleiades*, which is on the second of *April*, addeth,

Ter

*Ter sine perpetuo cælum versetur in axe,
Ter jungat Titan, terq; resolvat equos,
Protinus inflexo Berecynthia tibia cornu
Flabit, & Idea festa parentis erunt.*

This I note, that the error crept into * *Livy* may be * *Liv. l. 29.* observed, who treating of the matter in hand, saith, *In* *adem victoria qua est in Palatio, pertulere Deam pridie Idus Aprilis, isq; dies festus fuit: populus frequens dona Dea in Palatium tulit; Lectisterinum, & Ludi fuere, Magalestia appellata.* That is, that these Plays were celebrated upon the twelfth of *April*. But in the judgment of many Expositors, we are to read *Pridie Nonas*, for *Pridie Idus*. Moreover, servants might not be spectators here. And because the *Prators* did frequent these sports in their purple and best robes, *b* hence grew that Proverb *Purpura b* *Ant. Const.* *Megalensis.* To the younger sort at this time, liberty in *Ovid.* was granted to counterfeit all mens gestures and speech- *Fast. l. 4.* es, without distinction of degree or age. *c* They were *c* *Jul. Scalig.* sometime termed *Ludi scenici*, though properly, *Ludi Poet. l. i. c. 29.* *scenici* signifieth Stage-plays, and were performed in the honour of *Bacchus*.

CAP. 2.

Ludi Cereales.

THat these Games were performed in the honour of *Ceres*, is by none doubted. In them was represented by the *Roman* matrons, *Ceres* her lamentation of her daughter *Proserpina*, taken away by *Pluto*. The *Roman* men beheld these plays in white gowns: the women performed the sacred and holy Rites in a white garment also. Among whom it was observed, that then they thought their service grateful to the Gods, when it was performed by those that were joyful, and free from all funeral pollutions. At this time there was a solemn going in procession, and carrying about their Gods in the *Cirque*, this solemnity was properly called *Pompa*.

Circus

*Circus erat Pompa celebr, numeroq; Deorum,
Primaq; ventosis palma petetur equis,
Hic Cereris ludi, &c. Ovid. Fast. l. 4.*

*d Tert. de
spect. c. 7.*

The manner of this solemn shew, which as I noted, was properly called *Pompa*, is described *d* thus by its particulars ; that there was *Simulachrorum series*, *imaginum agmen*, *currus*, *thensa*, *armamaxa*, *sedes*, *corona*, *exuvie*, i. e. *First*, In this solemn Procession were carried about the Images of the Gods. *Secondly*, The Images of well-deserving Men. *Thirdly*, Chariots led up and down for greater state and magnificence : Unto this *Virgil* alludeth ;

*Hic illius arma,
Hic currus fuit.*

*e Vid. Franc.
jun. annot. in
Tert. de spect.
It. de tensis. vi.
Turneb. 26, 27
f Herod. 17.*

Fourthly, Pageants, so I interpret *Thensa*, which were so called *quasi tensa à tendendo*, as *e Ascanius* noteth, because they were carried up and down by the help of certain Ropes, which to touch they counted a point of Religion. *Fifthly*, Horse-litters, for that these *armamaxa* were not Chariots, or Waggon, appeareth by him, *f Qui ex curru in armamaxam deponebatur*. They seem to have been of a compounded form, in part like Chariots, called ἄρματα, in part like Wains, called ἄμαξαι, and thence ἄρμαμαξα hath its appellation, ἄρμαμαξα inquit Phavorinus, ἡ πρὸς ἀνδρῶν καὶ δέδραγν καὶ τοῦ δασυμήτην ἄμαξα, οἷον ἄρμα καὶ ἄμαξα, ἢ ἀνδρῶν ἄμαξά τις εἶσα ἢ ἄγισσα τὸς ἀνδρες. In which words, besides the Etymology expressed, the use hereof is declared to be for the carriage of Men. That as the Chariots went empty for greater magnificence, and as in their Pageants were carried the *Simulachra Deorum*, according to that *g Thensa Deorum vehiculum*, so in these Horse-litters were carried Men ; or rather that same *agmen imaginum*, which was the second particular. *6ly*, Chairs of State. *Seventhly*, Crowns. *Lastly*, Spoils taken from their Enemies. These three last I take to have been used chiefly and principally in the Roman Supplications, or publick Thanksgivings for any greater Victory : the custom being in such shews, when they came to such and such remarkable

*g Alex. ab A-
lex. l. 2. c. 30.*

remarkable places in the Cirque, to pitch a certain chair adorned with Crowns of Victories, and spoils taken from the enemy, reputing it not the least office, *h* thus to honour their Emperor, though absent, with the Prerogative of such a Chair. Now in the preparation to this particular shew, we read that an egg was especially provided. It is observed by *i* many out of *Macrobii* *i* Hosp. de whose words are; *Ovumq; in cerealis Pompe apparatu numerabatur primum.* The observation is general, but the reason thereof, *Inter arcana Cereris*, quite suppressed, and by none that ever I could meet with yet explained: if my conjecture may satisfy in a matter so obscure, conceive it thus: These pompous shews were various, and in the honour of divers gods, and accordingly the Romans made choice in every such solemnity, of some one principal thing in their shew unto which the glory of the present solemnity should in a more especial manner belong. Thus in the *Pompa Circensis*, which was celebrated in the honour of the *k* Sun; great horses were led up and down for greater state; *l* *Quia equis, & equestribus exercitamentis sol praesse credebatur superstitione antiquissima.* Hence the Cirque place it self was called *τὸ ἵππιον*, and *ἰστωδρόμιον*. After this same manner in this *Pompa Cerealis* (which was also sometimes called *Circensis*, from the place where it was exhibited) an egg was chiefly and principally provided: for seeing that under the name of *Ceres*, this solemnity was performed to the *Earth*, how could the *Earth* be more honoured, than by bearing about the Hieroglyphick of the whole World? as if they did intimate thereby, that even Heaven it self was beholden to the *Earth*.

————— *Pecori frondes; alimenta que mitia fruges*

Humano generi, vobis quoq; thura ministro. Ov. Met. l. 2.

As such an Hieroglyphick *m* *Cœlius Rhodiginus* proveth *m* *Cœl. Rhod. l. 27. c. 17.* an egg to be, partly from its circular and Globe-like form, partly from the matter whereof it consisteth; the hard shell resembling the soild earth; the more spiritu-

M

ous

h Vid. Isaac.
Casaub. in
Sueton. Jul.
c. 76.

i Hosp. de
orig. fest. Ro-
sin. l. 5. c. 14.
Alex. ab Alex.
l. 6. c. 19.

k Solis honore
novi grati spe-
tacula a Circi
Antiqui sanxe-
re patres. Cor-
ri. Alric. l. 1.
c. 17. vid.
Dempst.

l Franc. Jun.
annot. in Ter.
de spect. c. 8.

■ Dion. l. 49.

o Tertul. de
spect. c. 8.

ous part thereof, the air ; the moist and liquid part, the water ; the yolk, the element of fire ; yea, he noteth also, as there is *in mundo*, so likewise, *in ovo vis vitalis*, a kind of quickning and enlivening power in both. Otherwise if this opinion give not content, we may interpret the carrying about of the egg, to be in the honour of *Castor* and *Pollux* : for as there were marks, or goals in the Cirque, some in the form of *Dolphins* in the honour of *Neptune* ; so there were others *ἰσμενὸν δινυσεγγυαῖα* marks of a long roundness in form of an egg, in memory of o *Castor* and *Pollux*, which were *ovo editi*, according to that of *Horace*,

Ovo prognatus eodem. Hor. Serm. 2. Sat. 1.

For the same reason haply it was, that an egg was at this time carried up and down, as the chief and principal Ensign.

C A P. 3.

Ludi Florales.

p Alex. ab A-
lex. l. 6. c. 8.

THESE games or sports were instituted in the honour of the Goddess *Flora*, that she being therewith appeased, the earth might bring forth flowers and fruits in great abundance. Of the Goddess it hath been spoken before. The time of the year when these sports were observed, p was upon the four last dayes of *April*, and the first of *May*, whence is that of *Ovid*, *fast.* 5.

Incipis Aprili, transis in tempora Maii ;

Alter te fugiens, cum venit alter, habet.

The manner thereof was, that shameless strumpets did then run up and down the streets naked, using many lascivious and obscene gestures and speeches : they were called together by the sound of a Trumpet, unto which *Juvenal* alludeth,

Dignissima prorsus

Florali matrona tuba.

Moreover, whereas in other games, Boars, Lions and Bears were

were publickly baited, to recreate the spectators; here only Goats and Hares, and milder beasts were hunted, because the goddess *Flora* had not the custody of Wood and Forests, *q* where the wild beasts ranged, but *q* Hof. de orig. Gardens and Meadows. At this time also Elephants *fest.* were brought forth into the publick view of the people, which were taught *r* to walk on ropes; and that there *r* Suet. in Gal. is an aptness in Elephants to go forward and backward on ropes, *f* Pliny testifieth. *f* Plin. l. 8. c. 3.

C A P. 4.

Ludi Martiales.

OF these sports there is not much spoken: *t* these were *t* Dion. l. 60. observed upon the first of *August*, because on that day the Temple of *Mars* was consecrated. They were first instituted *u* by *Numa Pompilius*.

u Testul. de spect. c. 5.

C A P. 5.

Ludi Apollinares.

There was an ancient Poet called *Martius*, *x* out of *x* Liv. lib. 5. whose writings, as likewise out of the *Sibylline Ora-* dec. 3. cles, the Romans were admonished to dedicate certain Games to *Apollo*. At the first celebration of them, *y* it is *y* Macrob. l. 1. reported, that a sudden and unexpected invasion of ene- Sat. c. 17. mies inforced the Roman people to forsake their sports, and to betake themselves to weapons: in which time of their distraction, a cloud of Darts and Arrows was seen to fall upon their enemies, so that they presently returned Conquerors unto their sports, were *z* at their return they found one *C. Pomponius*, an old man, dancing to a Minstrel, and being very joyful, that their sports had been continued without interruption, they cryed forth, *Salva res est, salta senex*. Which speech after became proverbial, and is fitly used, when a sudden evil is seconded with a good event, beyond hope or expectation.

z Suet. Pomp. Fest. vid. Hof. de orig.

CAP. 6.

De ludis Romanis, qui & magni, & Consuales, & Circenses dicti.

* Tert. de
spect. c. 5.

b Serv. in Vir.
Æn. l. 8.

c Alex. ab A-
lex. l. 3. c. 26.

d Vid. Suid.

e Dion. Hal.
lib. 1.

THESE solemnities are sometimes called *Romani ludi*, because of their antiquity amongst the *Romans*, being first instituted by *Romulus*; sometimes *Magni ludi*, either because of the great charge and expence of money at that time, or because they were performed in the honour of their great God * *Neptune*, called also *Consus*, because he was reputed the God of secret *Councils*, whence the solemnities themselves are sometimes called *Consualia*: whereas many of the *Roman* Temples, for certain mysterious significations had their peculiar manner of building b *Servius* noted that the Temple in the great Cirque dedicated to *Consus*, was covered, to signify that Counsels must be secret and concealed. Likewise for the same reason, c his Alter was made under the earth, not appearing in publick view, save only in the time of these solemnities exhibited. The chief ceremonies used at this time, consisted in the adorning of their Horses, & Asses with garlands, wherein d they thought that *Neptune* was honoured, who was the first Author and inventor of horse-riding: hence *Neptune* himself is called ἐππιος. This festival was first instituted by *Evander*, in the honour of *Neptuna*, under the name of ἱππιος, and e thence the feast was called ἱππονεγσία. Afterward it was renewed by *Romulus*, in the honour of *Neptune* likewise, but under the name of *Consus*, because *Romulus* needed a God of Counsel to assist him in that designment of his, for the violent taking away of so many *Sabine* women, as were taken away at the first celebration of these games. The reason of *Romulus* his institution of them, being no other but that upon the fame of these new sports, many *Sabine* Women flocking thither to be spectators, his project might be the sooner effected. These and the Cirque shews,

shews, so often mention'd in antient Authors, at first were all one, as appeareth by that of *f Valerius. Ad id tempus* f Val. Max. Circensi spectaculo contenta erat civitas nostra, quod primus l. c. 4. *Romulus raptis virginibus Sabinis Consualium nomine celebravit.* Touching these Cirque-shews, some are of opinion, that they were performed in the honour of *Ceres*; this *Julius Scaliger* g disliketh, and he is of opinion, they were g Jul. Scal l. poet. c. 32. celebrated in the honour of *Neptune*: others are of opinion, they were instituted in the honour of the *Sun*. All opinions may be reconciled, if we understand first, those Authors who ascribe these Cirque-shews to *Ceres*, to speak of the *Cereales Ludi*, which we read sometimes to be called *Circenses*, because they were exhibited in the Cirque. Secondly, if we distinguish the *Pompe Circenses*, from the *Circenses Ludi*, and from the *Cereales ludi*: the *Cereales ludi*, were instituted in the honour of *Ceres*, the *Circenses ludi*, in the honour of *Neptune*; the *Circenses Pompe* in the honour of the *Sun*. And furthermore, for the full understanding hereof, we must know that the horses brought into the Cirque at this time, were of two sorts; some were only *πομπικοί*, such as were led up and down for shew and state; I understand *Alex. ab Alex*, to speak of these horses, when he saith b Alex. ab Alex. l. 3. c. 12. *b* horses were consecrated to the Sun: nay I understand those horses mentioned, *2 King. 23.* to have been of the like superstitious invention, where it is said that *Josuah* did put down the horses given to the *Sun* and the *Chariots of the Sun*. That practise I say hath near affinity with this of the *Romans*, but I think it to have been originally derived to the people of *Judah*, from the *Persians*, who also accounted them holy to the Sun; i Cael. Rhod. ant. l. 8. c. 2. *i* and the *Persian King* when he would shew himself in great state, caus'd an exceeding great horse to be led up and down, which was called *Equus solis*. Other horses were for exercise and race, we may call them *ἀεγυνοί*, the institution of these I suppose to have been in the honour of *Neptune*. The prizes of masteries exercised in time of this Cirque-shew were many; fencing, and

k Hen. Salm.
in Pancir. c.
de Cir. max.

l Tert. de spect.
cap. 9.

m Turneb. ad
l. 8. c. 4.

n Tertul. de
spect. c. 6.
o Suet. in Do-
mitian. c. 7.

and that until one of the combatants were killed in the place; fighting with beasts; wrestling, running of races on foot, jumping, and leaping; horse-racing; sea-skirmishes exhibited in some river; coach-races; and fighting at whole-bats. Howsoever the nature and manner of these games are in some measure understood by the very names; yet a more large discourse concerning the two last will be very behoveful, for the more full understanding of the Roman history. These coach-races, when this manner of race was first instituted, were divided into two companies, which they termed, *Factiones albas & russeas*, distinguishing each faction or company by the different colour of their k coats. Afterward they were divided into four companies, distinguish'd alwayes by their colours, whence came that distinction, *Factiones Prasina, Russata, Veneta, Albata*, which colours may thus be Englished: The first signifying a deep green: the next a kind of russet inclining to red: the third a Venice blue, or Turkey colour: and the last a perfect white. Of these l Tertullian speaketh as followeth: *Aurigis cloribus idololatriam vestierunt, & ab initio duo soli fuerunt, albus & russeus. Albus hyemi ob nives candidas, russeus aestati ob solis ruborem voterant: sed postea tam voluptate, quam superstitione provecata russeum alii Marti, alii album Zephyris consecraverunt: Prasimum vero Terra matri, vel verno: Venetum Caelo & mari, vel autumno.* As the Emperor, so the people sometimes favoured one faction or company, sometimes another: & accordingly as they favoured the company, they would lay wagers on their side, which wagers they termed by a peculiar name *Sponsiones*; thus m Turnebus interpreted Tertullian, where he saith, that the people flockt to these races, sometimes for one reason, sometimes for another, but sometimes n *Sponsionibus concitatus*, i.e. stirred up with a desire of betting, or laying wagers. To these four o Domitian in his time added two other companies, the one wearing cloath of Gold, the other of purple, but these latter remained not long in use. Their fighting at whole-bats they

they termed *Bellare cestu*. The manner of a fight conceived thus; the combatants had in each hand a strap of leather, with which each struck at the other (for we must know, that this kind of fight succeeded fisticuffs; and because in fisticuffs the party striking, did by the blow as well hurt his own fist, as he did him that was stricken, hereupon they invented this other kind of fight with leathern switches) these leathern switches they called *Cestus*, from the Greek *κεσος*, signifying a belt or girdel; to make the fight more dangerous, *p* they did in after-times *p* Jul. Scal.lib. Poet. c. 22. tie pieces of Lead, or Iron, at the end of these leathern straps, so that they did with the force of the stroke, often dash out one anothers brains; and because by the weight of the Lead or Iron, the Strap might chance to fly out of their hands, they caused each strap to be tied fast to their arms & shoulders; neither was this without reason; for those Iron or Leaden pieces could not but be very weighty, being made in the bigness and *q* from of Rams *q* Aldus Mant. l. 2. de quest. per epistolam, ep. 8. vid. Rosin. ant. l. 5. c. 5. Horns. Lastly these Cirque-shews had their appellation, *Cricenses*, either from the great Cirque, or shew-place, called *Circus max.* where the games were exhibited; or from the swords wherewith the players were environed, as one would say *Circa enses*. They much resembled those Grecian games called *certamina Olympica*, where the runners with Chariots were hem'd in on the one side with the running river, on the other with swords pitched point-wise, that they should hold the race on directly & not swerve aside without danger. *r* Some have thought, *r* Rosin. ant. l. 5. c. 5. them to be the same with *ludi Gymnici*, so called from *γυμνος*, naked, because that those which did perform those kind of exercises, did either put off all or the greatest part of their cloaths, to the intent that they might the more readily and nimbly perform their games; for which purpose they did also anoint there bodies with oil, whence we say, when a man hath lost his cost & labour *Operam & oleum perdidit*; *oleum* in this place signifying cost & charges:

charges : so that the proverb was the same with that of the Coblers Crow, *Opera & impensa perit.*

CAP. 7.

Ludi Capitolini, & Agones Capitolini.

r Liv. dec. 1.
& lib. 5.

f Sueton. in
Domit. c. 4.

t Rosin. ant.
l. 5. c. 18.

THE first institution of these games r *Livy* sheweth, where likewise he intimateth the reason why they were called *Capitolini*, to have been in the honour of *Jupiter Capitolinus*, because he preserved the *Capitol*, when it was assaulted by the *Gauls* : we must distinguish these games from those other shews called *Agones Capitolini*, instituted by *Domitian* : For those *Ludi* were exhibited yearly, f these *Agones* every fifth year : In those was celebrated the deliverance of the *Capitol* : In these *Rhetoricians*, and *Poets*, and Men of other professions contended for the victory : and hence t *Rosinus* thinketh the *Poets laureat* to have taken their beginning. He is likewise of opinion, that *Juvenal* alludeth unto these solemnities.

— Sed cum fregit subsellia versu,

Esurit, intactam Paridi nisi vendit Agaven. Sat. 7.

Although the allusion may be granted, yet herein I thing *Rosinus*, though otherwise learned, to have been mistaken, in interpreting *Fregit subsellia* by *Non stetit*, *Excidit*, or *Non placuit* : as if the Poet of whom *Juvenal* speaketh, had been conquered at this time. In my opinion neither will the purpose of *Juvenal*, nor that phrase of speech admit that construction. Not the purpose of *Juvenal* ; for the scope and drift of that Satyr, is to shew that be the Poet never so pleasing, or let him give full satisfaction to the people, yet he shall receive no benefit thereby but a vain and empty applause, so that he shall be compell'd to sell those very Poems which are received with so general an approbation, to buy victuals, and prevent hunger. Neither doth that interpretation agree with that phrase : for *Frangere subsellia*, doth rather on the

the contrary, signify the vehement acclamation given by the people in approbation of the Poem; it being a poetical elegancy, to express the vehemency and greatness of the applause. *u* *Sidonius Appollinaris* useth the self same phrase, *Hunc olim perorantem, & Rhetorica sedilia plausibilis oratione frangentem, socer eloquens ultro in familiam patriciam ascivit.* Neither is that of *Virgil* unlike:

Et cantu querulae rumpunt arbuta circade.

Yea, the *Grecians* used the same manner of Speech, *x* *Κατέγγυυτο πᾶς ὁπῆ, ὑπὸ τῶ Κρότῳ, ἢ τῶ Κραυγῆς.* *x* *Polyb* in *hist.* 15. So that hereby I think the Poet understandeth that *Grande sophas*, so often mentioned by *Martial*; it being a usual custom among the *Romans*, to signify the approbation of their Orator or Poet, by the loud acclamation of *σοφᾶς* or *ὀρθᾶς*. Unto which *Horace* alludeth, *de Arte Poet.*

—————*Clamabit enim pulchre, bene, recte.*

But to return whence we have digressed, these latter solemnities were of such note, that wheras the *Romans* formerly made their computations of their greater year, called *Annus magnus*, by their *Lustra*, y now they made it by these *Agones Capitolini*. Again, we must distinguish these *Agones quinquennales* instituted by *Domitian*, from those *Ludi quinquennales* instituted by *2. Augustus Caesar*, in memory of the Victory which he got against *Antonius* upon the Promontory *Actium*, whence they were called *Actiaci Ludi*.

CAP. 8.

De Ludis Secularibus.

Authors agree not upon the just period of time when these secular Games were to be renewed: some are of opinion that they were to be celebrated every hundredth year; some every hundredth and ten, some once only in three hundred; but in this all agree, that they were named *seculares* from *seculum*, which signifieth at

N

least

a Rosin. ant.
l. 5. c. 1.

b Pol. Virg. de
invent. l. 8. c. 1.
c Ovid. Trist.
lib. 2.

d Alex. ab A-
lex. l. 6. c. 9.

e Suet. Claud.
cap. 21.

f Hosp. de
orig. fest.

least an hundred years, *a* *seculum in centum annos extendi existimabant*; because the full and compleat Age of Man might extend it self to the hundreth year, and seldom to any above an hundred: thence it was, that the form of words used by the publick Cryer in proclaiming these Games, was, *b* *Venite ad Ludos quos nemo mortalium vidit, neque visurus est.* Unto which *c* Ovid alludeth, *Trist.*

—————*Carmina*—————

*Fusserat & Phæbo dici, quo tempore ludos
Fecit, quos ætas aspicit una semel.*

But the Emperours being ambitious of Honour, and desirous to be spectators of the Games in time of their own Reign, they did often anticipate the time. *Claudius* *Cæsar* among the rest, proclaimed them within *d* sixty three years after *Augustus* had observed them; which occasioned the people to deride his Cryer, inviting the people to those shews and sports, which no Man living either had seen, or should see again: because *e* some who were Spectators, nay, Actors in those Solemnities exhibited by *Augustus*, lived at the same time when *Claudius* caused this to be proclaimed. These plays were also *f* called *Tarentini ludi*, not from the City *Tarentum* in great Greece, but from a certain place of the same name near Rome, adjoining to the River *Tiber*. All the Theatres at this time were filled, and Sacrifices offered throughout all the *Temples*, for the space of three days and three nights; which giveth light to that of *Ansonius*,

Trina Tarentino celebrata trinoctia ludo.

The first day the Emperor and the *Quindecim-viri*, early in the morning ascended the *Capitol*, and there offered Sacrifice according to the wonted manner: thence they departed to the Theatres, to perform solemn plays in the Honour of *Apollo* and *Diana*. The second day the Noble Matrons assembled together in the *Capitol*; they offered up Supplications unto their Gods, they fasted and sung hymns in the Honour of their Gods. The third day, seven and twenty Boys, going along three and three,

three, and as many Maids in like manner, all of them Nobly descended, and having both Father and Mother alive, sung Verses, in which they commended the Roman State to the protection of the immortal Gods. This was termed *Peannas concinere*; which word *Peann*, though it signifieth primarily an hymn, or song of Praise made to *Apollo*, who was called *Peann*, *g* from *παῖαν*, à *feriendo*, *g* *Cœl. Rhod. antiq. l. 7. c. 5.* because of his victory gotten of the *Python*; yet *h* some- *h* *Servius in Æn. lib. 6.* times, and so in this place, it denoteth the Praises in general of all the Gods. Again, the phrase intimateth an elevation of the voice in singing, with a kind of rising from one note to another. Thus *Turnebus* maketh *παῖαν* and *μυυπίαν* to be opposite; *i* *Videtur autem i* *Turneb. adv. lib. 1. c. 12.* *Peann contentionis vocem esse, minuratio remissionis.*

CAP. 9.

De ludis Plebeiis, Compitalitiis, Augustalibus, Palatinis, Taurilibus, & votivis.

Other Games there were performed in the Honour of the Gods, which are rather named by Authors than explained, they are these that follow: *Plebei ludii*, *k* *k* *Ale. ab A. lex. l. 6. c. 19.* which were celebrated in memory of the liberty procured to the Roman state by the Succession of Consuls in the place of Kings: or as others say, in memory of the reconciliation wrought between the Senators and the Commonalty, by reason of their great oppression at that time, when the *Commons* in a kind of mutiny departed to the *Aventine Mount*. 2. *Compitalitii Ludii*, so called because they were usually solemnized in *Compitis*, (i. e.) in the cross-ways, and open streets: *l* they were first ordained *l* *Plin. lib. 36. cap. ult.* by *Servius Tullius*, in the Honour of those Gods whom they termed *Lares*, in the memory of his Nativity. The form of words used by the *Prator*, when he signified to the people the time of these solemnities, was as followeth: *m* *Die noni post Calendas Januarii Quiritibus Compitalia* *m* *Macrobi. l. 1. Satur.* *erunt.* Concerning which words *Gellius* noteth, *n* *Die noni* *n* *A. Gel. noct. ni At. l. 10. c. 14.*

o Alex. ab A-
lex. l. 6. c. 19.
p L. 56. c. ult.

q Fest. vid.
Hospin. de
Orig.

Turneb. adv.
l. 1. c. 17.

ni Prætor dicit, non die nono, neq; Prætor solum, sed pleraq;
omnis vetustas sic locuta est. 3. *Augustales ludi*, performed
in the Honour of *Augustus Caesar*. 4. *Palatini ludi* so na-
med, because they were performed in the *Palatine* mount.
Some are of opinion that they were instituted in the
honour of o *Julius Caesar*, others in the honour of p *Augu-
stus*. 5. *Taurii ludi*, which received their name from
Taurus, a Bull; they were first ordained by *Tarquinius*
q *Superbus*, when there hapned a great pestilence amongst
the Women with child, occasioned by much Bull-flesh
sold unto the people; for the removal of which plague,
these Games were instituted, in honour of the Infernal
Gods. They are sometimes also called *Boalia & Bupetia*.
6. To these we may add their *Votivos Ludos*, which were
also performed in the honour of some God, upon some
special vow made. For whensoever the *Romans* did un-
dertake any desperate war, then did some *Roman Magi-
strate Vovere ludos, vel templa*, conditionally that they got
the conquest: whilst the Magistrate uttered this his vow,
he was said *Vota nuncupare, or facere vota*, i. e. to make a
solemn vow unto the Gods: the vow being thus made,
he which made it did write it in paper, and with wax
fastned it to the knees of their Gods, thereby binding
himself the more strongly to the performance; and this
in *Pliny* his phrase is *signare vota*: *Juvenal* termeth it
Genua incerare deorum, Sat. 10.

After this he was said to be *Voti reus*, i. e. conditionally
bound and obliged to the performance thereof, so that
the Gods might challenge the thing vowed as due debt,
if they granted his request; yea, after that the thing cra-
ved had been obtained, then was he said, *Damnatus voti,
vel voto* (i. e.) simply bound to the performance of the
vow; so that by consequence, *Damnari voti, vel voto*, is to
have ones desire accomplished. Thus have we gone over
the chief and principal Games which were meerly *sacri*,
tending to Religion: the second sort were *Ludi honora-
rii*, of which in the next Chapter.

CAP. 7.

De Gladiatura.

SUCH Sports and Plays which were performed by private Men upon their own purse and charges, they seeking thereby to wind themselves into the affections of the common people, and to make way for their own preferment and honour, were termed * *Ludi honorarii*; * Isaac Casaubon. in Suet. Aug. 32. and howsoever any game or shew might be tendred unto the people in this respect, yet those of this nature were for the most part, either *fencing* or *stage-plays*; *fencing*, because the sight thereof was so often freely bestowed upon the people, is therefore many times denoted by the Latin word *b Munus*; and those that bestow these *b* Lips. Sat. l. i. c. 7. fights are for the same reason termed *Munerarii*. The first original of this fencing and sword-playing, to the killing of one another, hath been derived *c* Tertul. It. Servius in Æneid. 10. from a customary practice among the Heathens, at the burials of their Friends who were perswaded that the shedding of Mans Blood would be propitiatory for the Soul deceased; hence would they buy Captives and Slaves, purposely to be sacrificed at Burials: afterwards, that this wicked spectacle might be the more pleasant and delightful, they changed their Sacrifice into a fencing with Art, where the combatants did fight for their lives. This particular kind of *Fencers* were called *Bustuarii*, from *Bustum*, the place where dead Mens bodies were burned: but ambition and cruelty made these bloody spectacles in after-ages more frequent, insomuch that prizes at last were plaid not only at the Tombs, but in divers other places, as the *Cirque* and *Amphitheatre*, &c. yea, they were given as legacies by will and testament unto the people. These prizes have continued many days together, and the number of the Combatants sometimes exceeded number. At the first none would thus hazard their lives but Captives, and fugitive servants, which were enforced there-

thereunto, being bought for that purpose ; afterward those that were free-born suffered themselves to be hired, *d* Sen. ep. 100. for which cause they were termed *Auctorati*, hirelings ; *d* yea, Noblemen themselves sometimes, by reason of their decayed estates, sometimes to demerit the Emperour his love, endangered their lives in this fight. Those that were hired, bound themselves by a solemn oath to fight unto death, or else they would yield their bodies to be whipt, *e* Serm. 27. yea, and to be burnt : unto which *e* Horace alludeth :

*Quid refert ; uri, virgis, ferroque necari ?
Auctoratus eas, an turpi clausus in arca ?*

f Sueton. in
Julio.
g Plin. 357.

The manner of this bloody spectacle was thus : The Master, or exhibiter thereof, did by a publick Bill give notice unto the people, what day the Prize should be performed, how many couples were to combate, what their names, &c. thereby to procure the greater expectation, and concourse of people : of this speaketh *f* Sueton. *Munus populo pronunciavit in filia memoriam.* *g* Yea, they did in tables hanged in publick view, paint and represent, not only the description of the place, but also the very form and gesture of the Fencers :

—velut si

*Revera pugnent, feriant vitentque moventes
Arma viri.*

Horat. lib. 2. Sat. 7.

h Lips. Sat.
l. 2. c. 19.

Upon the day appointed when all met, then were the weapons brought forth, and those were of two sorts : *Lusoria*, or *Exercitoria tela*, such as were the spear and wands, or cudgels ; that they might toss the one, and fence with the other, and shew their feats of activity ; all being but preparations to that more solemn and dangerous fight ensuing. The Greeks call'd them *εσχαίρωμα & ἀνοτιὰ*, because of the little Balls tied at the sharp end of the Weapons to prevent dangers. Others were *h* *Decretoria tela*, so called, *Quia hac velut decreto Prætoris, sive Editoris dabantur.* These were those, with which they really encountred each other for life or death ; and therefore *i* Sen. ep. 117. sometimes they are called *Pugnatori.* *i* Seneca speaketh

eth of both, *Remove ista lusoria arma, decretoriis opus est.* And that the Apostle doth not allude to both, I dare not gainsay, 1 Cor. 9. 26, 27. where he saith, ἔτι πικτεῖω ὡς ἐν αἵρεσι δέρον, ἀλλ' ὑποπιλάζω μὴ τὸ σῶμα. He did not beat the Air, and flourish with those lufurious and preparatory weapons, but he did truly fight against his natural corruption, to the wounding and subduing of it, for so *κ' ὑπὸ πικτῆ* *κ' Suid. in voce* signifieth *putrified wounds*. That phrase of *Seneca's* al- *κ' ὑπὸ πικτῆ* luding to the fore-flourishing, is not much unlike, *Aliud est ventilare, aliud pugnare.* *Sen. l. 3. contra* This fore-skirmish with cudgels was properly termed *praludium*. *Megara* speaking of *Hercules* his Conquest over the two Serpents, assaulting him being as yet an Infant, saith, *in Pralufit* *Sen. Herc. fur. vers. 221.* *Hydra*, i. e. that Combat was but the Prologue, Preface, or Introduction to that greater which should ensue between him and the *Hydra*. Afterwards when they betook themselves to naked Weapons, and to a real fight, then were they said *Dimicare ad certum*, and *Versis armis pugnare*. This word *in Versis* being put for *Transmutatis*. In the act *in Lips. Sat. l. 2. cap. 19.* of fighting, they did frame and compose their body according to the rules of their Art, for the better warding of themselves, and the readier wounding of their adversary. This frame and posture of the body, was by a peculiar name called *Status*, or *Gradus*, whence arose those elegant Metaphors, *Cedere de gradu*, *demigrare de gradu*, to change ones purpose, and as it were to draw back from what he formerly intended. In like manner we say, *De mentis statu dejicitur*, or *deturbatur*: he is driven to change his mind; or in general, he is amazed. In the conflict, oftentimes the Sword-players after they had received any dangerous wounds, laid down the weapons; which though in extremity was a token of cowardise, neither were they thereupon acquitted or discharged: but this depended upon the consent either of the Emperor, or the people, or the Master of the Shew. This discharge was properly called *Missio*. Such was the cruelty of those times, that many prizes were proclaimed, wherein they fore-signifi-

ed,

ed, that such discharges should neither be craved, nor granted : whereupon *o Augustus Caesar* made a Decree, wherein *Gladiatores sine missione edi prohibuit*. Those combatants that overcame, received by way of reward, sometimes Money, sometimes a Garland, or Coronet of Palm-tree, wound about with certain woollen ribands, called *Lemnisci*, the coronet it self was therefore called *p* *Palma lemniscata*, and hence figuratively hath *Palma* been translated to signify the Victory it self; and such a Man as hath often got the prize, we say proverbially, that he is *Plurimarum palmarum homo*. The reason why the Palm-tree, rather than any other tree, should be given in token of Victory, is rendred by *q* divers approved Authors to be this : because the Palm-tree, though you put never so ponderous and heavy weight upon it, yet it will not yield, but rather endeavour the more upward. Sometimes the reward given by the people was one of those Wands or Cudgels used in the fore-skirmish. That Wand was properly called *Rudis*, and it was given in token of liberty, signifying thereby, that he should thenceforward lead his life free from shedding of blood : alluding to which custom, this word *r Rudis* hath been used to signify any other kind of freedom or discharge : Whereupon *Horace* said of himself, that he wat *Rude donatus*, *i. e.* discharged from his pains in Poetry. Lastly, sometimes he that conquered received *Pileum*, a Cap. And here it will not be amiss, to note the difference between *Palma*, *Missio*, *Rudis*, and *Pileus*. *Palma* was only a token of victory, not of liberty or discharge. *Missio* was not a full discharge, but a kind of vacation, or respite granted upon request, until the morrow, or some other time : again, it was granted to those that were conquered, not to the Conquerors. *Rudis* was a token of a full discharge from bloody combats, whereby a Mans life might be endangered : but yet with this distinction, that if it were bestowed upon free Citizens, hired to be Actors in these Masteries, then were they thereby restored to their freedom

o Suet. Aug. 49.

p Fran. Sylv. in
orat. pro Sext.
Rosc.

q Arist. Prob.
7 Plut. symp.
8. q. 4. Aul.
Gel. l. 3. c. 6.

r Eras. Adag.
Rudem accip.

dom also, which formerly they forfeited by undertaking such base conditions : to others which were formerly servants, or Captives, it was only a token of liberty and discharge. Notwithstanding, sometimes upon favour, such Servant or Captives obtained together with their discharge from such fights, a priviledge also of enfranchisement whereby they were thenceforward incorporated among free Citizens ; the token thereof was *Pileus*, for then they received a Cap : which latter observation helpeth for the understanding of *Tertullian*, where he saith, *Qui insigniori cuiq; homicide leonem poscit, idem gladiatori atroci petat rudem, & pileum primum conferat.* Tertul. de Spect. c. 21. In which speech the unjust and unreasonable practice of those Heathens is displayed, whilst they judg a Man-slayer to be exposed to Lions and wild Beasts, and yet notwithstanding will reward the bloodiness of sword-players. These Fencers fought with divers manner of Weapons, and accordingly had several names, the chief of which we read are these : 1. *Retiarii*, so called from *retejaculum*, signifying a float-net used in fishing, because this sort of Fencers did fight with a cast-net in one hand, to catch and clasp about their adversaries head ; and a three-forked engine in the other, which they used instead of a Sword : of this *Juvenal* speaketh, *Sat. 8.*

Movet ecce tridentem.

They did always fight in their coats ; whence the *Epitheton* floweth, *retiarii tunicati*. The reason why they bore up and down Sponges, which *Tertullian* calleth *spongia retiariorum*, may be for the drying up of the blood, and wiping or stopping of the wounds : which use of sponges, *Pliny* noteth. Now because these *Retiarii* Plin. 3. c. 24. were so lightly armed, they were compelled every time they strook with their net, to retire back until they recovered their net again ; and hence the second sort of Fencers which fought with them, were termed *Secutores*, *ab insequendo*, from following and pursuing these *Retiarii*. The weapons wherewith these *Secutores* Lips. Sat. 1. 2. 5. 7.

u Turneb. adv.
lib. 5. c. 10.
x Suet. in Do-
mit. c. 10.

y Alex. ab A-
lex. l. 6. c. 22.

x Veget. Vide
Epist. de milit.
l. 3. dia. 7.

tores did fight, were a Target to keep off the Net of the adversary; a Sword and a Helmet. 3. *Thraces*, so called from the *Thracian* Weapons which they used; their Target was round and little, called *Parma*: it was at first in use among the *u Thracians*, and afterwards so proper to this sort of sword-players, that x *Parmularius* signifieth such an one as favoured this company or faction of Fencers. Their Sword was a crooked falcion, termed by them *Sica*. y The *Roman* Souldiers did use to wear two of these, a long one on the left side, and a shorter on the right side, answerable to our sword and dagger; but the form of the *Sica* was always crooked, according to that, *Sica δρᾶκινον ξίφος ἐπίκλαμπες*. Privy murtherers practising the killing of Men, may seem to have used the lesser, as a pocket-dagger; such are those *Sicarii*, of which there is such often mention in *Tully*. 4. *Myrmillones*; they are sometimes called *Galli*, because they were appointed after the manner of the *Gauls*. Their Weapons were a sword, a target, an helmet with a crest in form of a fish. 5. *Hoplomachi*, the name imports them to be armed in their fight; it is derived from the Greek ὅπλον, *vel* ὅπλα, *arma*, & μάχη, *μιοι*. Until *Augustus* his time they were named *Samnites*; their Armour was an helmet with a tuft on the crest, a sword, a shield, and a boot on the left leg. 6. *Provocatores*, sometimes called *Probatores*; these usually fought with the *Hoplomachi*; their Armor was a sword, a target, an helmet, and boots on both legs. For as the footmen among the Souldiers, so likewise some of the sword-players used boots for the safeguard of their legs: these boots were made of x Iron; and so common amongst the *Grecians* in War, that boots alone are oftentimes put to express the *Grecians* whole armature, as appeareth by that useful Epitheton in *Homer*, εὐνήμυδις Ἀχαιοί, i. e. *Bene ocreati Græci*; these boots they wore sometimes on both legs, sometimes on one, according as the manner of the fight required. 7. *Effedarii*, such as fought one against another out of waggons; so called from *Esse-*
dum,

dum, a waggon or chariot. 8. *Andabati*, quasi ἀναβαταὶ *ascensores*, because they did fight on horse-back, or out of chariots. This sort of Fencers did fight winking; whence ariseth that adage, *Andabatarum more pugnare*: the phrase is fitly used, when two ignorant persons are hot in contention about that which neither understandeth. 9. *Dimacharii*, called also *Orbela*; they fought each against the other with two swords apiece, as the first name importeth. 10. *Laquearii*, such as fought with swords and halters; the use of the halters was the same as the *Retiarii* made of their nets, to cast about their adversaries neck or arm, that they might the easier wound them with their sword. Of all these sorts of Fencers *Lipf. Sat. 2.* *Lipfius* treateth largely, to whom I refer the Reader. Only here let me take notice, that it was in the power of the people, to discharge any of these Combatants in time of the fight; which discharge they signified *premendo pollicem*, by holding down their thumb: or else to adjudge him to continue the fight, though in never so great danger; and this later they signified *convertendo pollicem*, by turning up the thumb;

— *Et verso pollice vulgi*

Quemlibet occidam populariter. — *Juven. Sat. 3.*

Moreover, that their might be always in readiness a sufficient number of Sword-players, hence were there Schools erected, into which Captives, Fugitive-servants and notorious Offenders, were sometimes condemned, sometimes sold. The masters of these schools were called *Lanistæ*; the Scholars or under-Fencers trained up there for more publick and dangerous fights, were called *Familia*. The word *Familia* is often taken in this sence to signifie the whole company of under-Fencers belonging to one School; and the master of defence is for this reason more than once by *m Sueton.* called *Pater familias.* *m Suet. Calig. 26.* Moreover, when one challenged another to these combats, they signified their challenge by beckoning their little finger. *Horace* alludeth unto this:

Crispinus minimo me provocat, accipe si vis,

Accipe jam tabulas. Lib. 1. Serm. 4.

This must be understood of a beckoning, and that with the little finger, for otherwise in time of the fight, if either of the Combatants did hold up his finger, he signified thereby that he did yield, and give place unto his adversary: some think that *Persius* had respect unto this custom, in that Phrase,

———*Digitum exere peccas.* Sat. 5.

CAP. II.

De Ludis Scenicis.

o *Lazius de*
Repub. Rom.
l. 10. c. 11.

p *Alex. Gen.*
dier. l. 6. c. 19.

THE second sort of Plays bestowed on the people for their favour, were *Ludi Scenici*, Stage-plays. The reason of this name *Scena* may be seen before. The first institution of them was occasioned by reason of a great sickness, which by no medicinary help could be removed. The *Romans* superstitiously conceiting, that some new games of sports being found out, the wrath of the Gods would thereby be unarmed. Whereupon, about the four hundredth year after the building of *Rome*, they sent for certain stage-players out of *Hetruria*, which they called *Histriones*, from the *Hetrurian* word *Hister*, which signifieth such a Player. *Quia Hister Thusco verbo ludus appellatur, id nomen Histrionibus est additum*, *Polydor. de inven. l. 3. c. 13.* Concerning the divers kinds of stage-plays I read of four, called by the Grecians, *Mimica*, *Satyra*, *Tragoedia*, *Comædia*: by the Romans, *Planipedes*, *Atellanæ*, *Prætextæ*, *Tabernariæ*; in English, *Fable*, *Mimical*, *Satyrical*, *Tragical*, *Comical*. These *Mimical* Players did much resemble the Clown in many of our English stage-plays, who sometimes would go a tiptoe, in derision of the mincing dames; sometimes would speak full mouthed to mock the Country-clowns; sometimes upon the tip of their tongue, to scoff the Citizen. And thus, by the imitation of all ridiculous gestures or speeches, in all kinds

kinds of vocations, they provoked laughter; whence both the plays and players were named *Mimi*, from $\mu\mu\omicron$ an imitator, or one that doth ape-like counterfeit others; as likewise they were called *Planipedes*, because the Actors did enter upon the Stage *Planis pedibus*, id est, *excalceati*, bare-footed. The second sort of plays were called *Satyræ*, ^a from the lascivious and wanton Country God's called *Satyri*, because the Actors in the *Satyrical* Plays did use many obscene Poems, and unchaste gestures, to delight their spectators. Afterward these kind of Actors as we may conjecture, did assume such liberty unto themselves, that they did freely, and without controulment, sharply tax and censure the vices even of Kings as well as of the Commons; insomuch that now we call every witty Poem, wherein the wit and manners of Men are sharply taxed, *A Satyre*, or *Satyrical Poem*. ^b *Satyræ* ^b Vid. Eras. mordax fuit & salsum genus carminis. These plays were also called *Attellane*, from the City *Attella* in *Campania*, ^{κατα δ' εἰς} where they were often acted. The third sort of stage- ^{σάτυροι} plays were called *Tragædia*, from $\tau\rho\acute{\alpha}\gamma\omicron$ a Goat, and $\acute{\alpha}\delta\eta$, an Ode or Song, because the Actors thereof had a Goat given them as a reward. And likewise they were called *Prætextata*, from *pretextata* a certain Roman Robe, which these Actors did use to wear in their plays. The fourth sort were *Comædiæ*, from $\kappa\omicron\mu\alpha\iota$ which signifieth villages, and $\acute{\omega}\delta\eta$, because those kind of Actors did go up and down the Country acting those *Comedies* in the villages as they passed along. They were likewise called *Tabernariæ*, *à tabulis*, i. e. from the boards or pentices where-with they were sheltered from the weather whilst they were acting. These two last sorts of plays, namely, *Tragedies* and *Comedies*, being still in use among us, it will be worth our labour to consider the communities, wherein they agree; otherwise the properties or notes of distinction, by which they differ. I find three sorts of parts, wherein they agree; namely, *partes primariae*, *accessoriae*, *circumstantes*; parts principal, accessory, and circumstances,

cumstances, which were not so truly parts, as accidental ornaments added to beautifie the plays. The principal parts are four, in respect of the matters treated of ; for, as far as the declaration or exposition of the matter in hand reacheth, without intimation of the event to ensue, so far reacheth the first part called *πρότασις*, which word signifieth no more than a proposition or declaration. But when the play inclineth to its heat and trouble, then ensueth the second part, called *ἐπίτασις*, which signifieth the intention or exaggeration of the matter. The third part is called *κατάστασις*, i. e. the state and full vigour of the play. The last part, which is an unexpected change into a sudden tranquillity and quietness, is called *κατάστροφὴ*, which by a *Metaphor* hath been translated to signifie the end or period of any other thing ; or rather the inclination unto the end, as *vita humane catastrophe*, the end of a mans life. In respect of the players forsaking the stage, the parts were five, namely, the five Acts. For the Actors did five times in every *Comedy* and *Tragedy* forsake the stage, and make as it were so many interruptions. The occasion whereof is supposed to have been this, that the Spectators might not be wearied out with a continued discourse or action, but that they might sometimes be delighted with variety intermixed. For those breaches and chasmes between each Act, were made up and supplied, either by the *Chorus*, or *Musick*. Where we must note, that every *Tragedy* and *Comedy* must have five Acts and no more, according to that of *Horace* :

*Neve minor quinto, neu sit productior actu
Fabula, —*

Again, we must remember, that it is not necessary that the *πρότασις* should always be contained in the first Act, though many times it happeneth so ; for in *Plautus* his *Bragging Souldier*, the *Prötasis* is found in the second Act ; and so likewise are the other three parts, i. e. *Epitasis*, *Catastasis* and *Catastrophe*, their bounds unbounded. These

These Acts are divided into several Scenes, which sometimes fall out more, sometimes fewer in every Act. The definition of a Scene being a *Mutatio personarum*: whence we call a subtle *Gnatho*, which can humour himself to all persons and times, *Omnium scenarum homo*, a Man fit for all parts. Now amongst the Romans it was thought unfit, that above three persons should come on the stage in one Scene.

— *Nec quarta loqui persona laborat.* Hor.

The *partes accessorie* in a Comedy are four: *Argumentum*, *Prologus*, *Chorus*, and *Mimus*. The first is the matter or subject of the Comedy. The second is the *Prologus*, which is either *ὑποδιδυμις*, such as doth open the state of the Fable, at which time there needeth no argument; or else *εὐσεβιδυμις*, such as commendeth the Fable, or the Poet unto the people; or lastly, *ἀναφορικιδυμις* such as shall refute the objections and cavils of Adversaries. The third is *Chorus*, which speaketh between each Act; and this *Chorus* may consist either of one, or many speakers, and that either male or female; *d* but with this caution, that if a male be to be commended, then must the *Chorus* consist of males: if a female be to be commended, then must it consist of females. And always whatsoever the *Chorus* speaketh, it must be pertinent to the Act past, or covertly intimating somewhat ensuing.

— *Non quid medios intercinat actus,*

Quid non proposita conducat & hereat aptè. Hor.

It may seem sometimes that in the midst of the Play some other sport was interposed, as hunting, or fencing, or such like, to delight the Spectators with the greater variety: whence Hor.

Si discordet eques, media inter carmina poscent

Aut iussum, aut pugiles.

These interposed varieties were denoted by the name of *Diludia*; *Displicet iste locus, clamo, & Diludia posco.* Hor.

The fourth and last accessory part was *Mimus*, the Clown or fool of the Play. Of all these parts, a Tragedy hath only

only a *Chorus*. The *partes circumstantes*, or accidental ornaments were four, common to both, *Titulus*, *Cantus*, *Saltatio*, *Apparatus*, *id est*, the Title of the Play, Musick, Dancing, and the beautifying of the Scene. By the Scene in this place, I understand the partition between the Players vestry, and the stage or scaffold. This partition at the acting of a Tragedy was underpropped with stately columns and pillars, and beautified with paintings, resembling Princely Buildings, and the Images as well of Gods as Kings. At the acting of a Comedy, Country-Cottages and private Buildings were painted in the out-face of the partition. In the *Satyrical* Plays, the painting was over-run with shadows of Mountains and Woods: The *e* first of these partitions they called *Scenam Tragicam*, the second *Comicam*, the third *Satyricam*. The differences between a Tragedy and a Comedy, which may be collected out of *f Antesignanus*, are these: first in respect of the matter, because a Tragedy treateth of exilements, murders, matters of grief, &c. a Comedy of Love-toys, merry fictions, and pretty matters; the one being *δενᾶν περίοχῃ*, the other *συλῆς περίοχῃ*. In a Tragedy, the greatest part of the Actors are Kings and Noble Persons, in a Comedy, private persons of meaner state and condition. The subject of a Comedy is often feigned, but of a Tragedy it is commonly true, and once really performed. The beginning of a Tragedy is calm and quiet, the end fearful and turbulent; but in a Comedy commonly the beginning is turbulent, and the end calm. Another difference which *Antesignanus* hath omitted, is behoveful for us to know, namely, that the Tragedians did wear upon the stage a certain shooe, coming half way up the leg in manner of buskins, which kind of shooe was called by them *Cothurnus*; and from that custom it hath been occasioned that *Cothurnus* is translated to signify a Tragicall and lofty style, as *Sophocleo digna Cothurno*, matters befitting *Sophocles* his style, and sometimes a Tragedy it self. The Comedians did use an high shooe coming up above

e Alex. Gen.
dier. l. 5. c. 16.

f Antefig. in
suis observ.
de metris co-
mecis Terrent.
præfixis.

Nigris medi-
um impediit
orus Pellibus
Horat. Serv. l. 1.
Sat. 6.

above the ankle, much like a kind of shoes which plowmen use to wear, to keep themselves out of the dirt. This kind of shooe is called *Soccus*; by which word sometime also is signified a Comedy; as,

Hunc Socci cepere pedem grandesq; Cothurni. Hor.

^g All these sorts of stage-plays, both *Mimical*, *Satyrical*, ^g Antefg. ib. *Tragical* and *Comical*, if they were acted according to the Grecian rite and custom, then were they called *Palliata*, from *Pallium*, a certain mantle which the Grecians did use to wear; if according to the Roman manner, then were they called from the Roman gown *Togata*.

C A P. 12.

De Trojano ludo, sive Troja.

IT was a custom among the Romans, sometimes in the year, to have a general muster of the younger sort, who meeting in the Cirque, exercised their running, racing, riding at tilt, and other such-like feats of activity, whereby they might be trained up for their better service in the War. They chose a Captain, one or other of noble birth; he was called * *Princeps Juventutis*. They ^{* Hosp. de orig. fest.} divided themselves into distinct Companies, sometimes marching forward one against another, sometimes retiring backward; sometimes skirmishing, sometimes imbattelling themselves in one form, sometimes in another, as if it were a true field pitch. A large and full description hereof we have in *Virg. Æn. 5*. This game was called *Trojanus ludus*, or simply ^b *Troja*, without the addition ^b *Suct. in Jul. c. 29.* of any other word, because *Ascanius*, *Aeneas* his Son, first brought it out of *Troy*; according to that of *Virgil* in the fore-quoted place,

*Hunc morem, cursus, atq; hæc certamina primus
Ascanius, longam muris cum cingeret Albam,
Rettulit, & priscos decuit celebrare Latinos.*

Among other Sports used at this time, ^c there was also ^c *Alex. ab A-* a kind of Morisk-dance, wherein the younger Men dan- ^{lex. l. 6. c. 19.}

P

ced

f Plin. l. 7. c. 56.
g Serv. in l. 5.
 Æn. It. Alex.
 ab Alex. loco.
 supra citato.

b Sueton. in
 Neron. c. 11.
 i Cœl. Rhod.
 l. 19. c. 22.
k Rosin. Rom.
 ant. l. 5. c. 22.

ced in harness, after a warlike manner, being thereby trained to exercise all parts of their body, by sundry gestures, as well to avoid avenues and defend themselves, as to annoy and offend the Enemy. This kind of Dance is generally called *Pyrrhica saltatio*, because it was invented by *f* *Pyrrhus*. Yea, *g* some say, that *Suetonius* taketh *Trojanus ludus*, and this *Pyrrhica saltatio*, from one and the same thing. Nay, *Alexander* confoundeth both these, with those other games termed *Juveniles ludi*. But doubtless herein he was mistaken; for those *Juvenilia* were instituted by *b* *Nero* i at the shaving of his beard, and had not their name, because young Men were the chief actors, but because old Men would now by the practice of youthful sports, turn young again. *k* The actions at this time were so far from favouring of Military Discipline, that on the contrary, they were for the most part effeminate and wanton.

C A P. 13.

De tesseris, talis, & latrunculis.

o Alex. ab Alex.
 lex. l. 4. c. 2.

p Suet. Aug.
 cap. 40.

BEfore we treat of the game called *Ludus tesserarius*, it will not be amiss, i. to clear the word *tessera* from all ambiguity. The word hath four remarkable significations, all alluding to matters of Antiquity. First, it signified a watch-word among the Souldiers in the Camp, whereby they discerned their Enemies, or Spies, from their own fellows. *o* *Alex. ab Alexandro* giveth many examples hereof: *Augustus Cæsar* in his camp gave for his watch-word, *Venus genetrix*: *Pompeius magnus* gave for his, *Hercules invictus*, &c. and this was called *Tessera militaris*. Secondly, there was *Tessera frumentaria*, a certain ticket or token given by the Magistrate unto the poor, at the tending whereof, *p* at the beginning of every month, certain doles and measures of corn were given: it is evident that at first there were such monthly distributions of corn, even by that endeavor of *Augustus*,

Augustus, who for the avoiding of trouble, would have reduced all to three set distributions in the year, but prevailed not. Sometimes instead of Corn, or haply over and above the Corn, there were at certain times doles of money given to the poor; which dole whosoever received, tendered his token or bill of exchange, termed *Tessera nummaria*; these two last acceptations, though they may be distinguished, yet because they both tended to the relief of the poor, I have joined them together. 3. There was *Tessera hospitalis*, a certain token of wood or such like matter, which usually was cut in two by those who had engaged themselves mutually to entertain each other, whensoever entertainment should be craved: yea, this wooden ticket or tally being mutually accepted, it was lawful for their posterity, bringing this token, to challenge hospitality. Thus he in *Plautus* having formerly used *Antidomus* as his Host, after *Antidomus* his death, he cometh unto *Antidomus* his adopted Son, not doubting of entertainment; for saith he, *Deum hospitalem, ac tesseram mecum fero*. Hence from this custom, or tendering a token when hospitality should be craved, that Adage hath been derived, *Tesserem hospitii confregit*, i. e. he hath broken the league of Hospitality. Lastly, *Tessera* signifieth a Dye; where we must not, that the word *Alea*, which commonly is translated a Dye, is a general word, applied equally both to the *Tessera* and the *Tali*, to denote the uncertainty of both games. *Tessera* properly signifieth a Dye; *Talus*, an huckle-bone, such wherewith children play at *Cockall*. In determining the several chances in these plays, Authors are not only diverse, but in many things contrary each to other; neither can any certainty be gathered from their writings: whether my conjectures, drawn from comparing their several and contrary writings, may give light for the right understanding of decayed knowledge herein, I shall willingly submit my self to the censure of the judicious. The several chances which I read of, are these,

q Suid. in voce
ναϞ.

some arising from the number of the points in the Dye, as *Senio*, *Momus*. More usually amongst the Grecians, q these two were termed ναϞ, & χιϞ. ὁ μὲν γὰρ χιϞ ἐδύνατο ἐν, ὁ δὲ κωϞ ἐξ, i. e. *Chius*, answered our *Ace*; *Cous*, our *Sice*. And this is confirmed by a proverb in use amongst the Grecians; κωϞ πρὸς χιϞ, which the learned interpret to be a comparison of unequals, a Pigmy with a Giant: others named from the number, I read not of. Perhaps they plaid not with a single Dye, but with three, as we use in *Passage*; whence their chances might have their name, not from the number of points in each several Dye, but from them all being cast. But that the *Tesserae* had points in them, appeareth by the testimony of * *Turnebus*: And hence *Numeri* is sometimes used for *Tesserae*:

* Turn. adv.
l. 5. c. 6.

Sen ludet numerosq; manu jactabit eburnos.

Ovid 2. de Art. Amand.

b Turn. adv.
l. 6. c. 10.

That they used more *Tali* in their Plays, than they did *Tesserae*, b *Turnebus* observeth from that Verse;

c Coel. Rhod.
l. 20. c. 17.

Non sum talorum numero par tesserae. Mart. 14. Epig. 15. c *Caelius Rhodiginus* speaketh more distinctly, saying, that in their play they used three *Tesserae*, but four *Tali*. These *Tali* were sometimes called *Vulturii*, as appeareth by the same d *Rhodiginus*, and likewise *Reguli*. The reason of both is rendred by e *Turnebus*; he being of opinion that these *Tali* had not points in them as the *Tesserae*, saith, *Pro numeris effigies animalium habebant, ut vulturum, aut regulorum.* That they were termed *Vulturii*, is probable by that of *Plautus*:

d Coel. Rhod.
l. 6. c. 18.

e Turn. adv.
l. 5. c. 6.

Tace parumper, jacet Vulturios quatuor.

Plaut. curcul. Act. 2. Sce. 3.

But that the Cock-all bones should be called *Reguli*, I somewhat doubt; for no question but *Regulus* and *Basilicus* in this place signified one and the same thing, the one being the Latine, the other the Greck word; now *Basilicus*, as shall presently appear, signified the whole chance. So confused are the opinions of Authors herein.

in, that to assign the reason for every chances name, or to reduce every chance determinately, either to the *Tessera* or the *Tali*, I think it impossible. Only some may be thus reduced, and in general we may conceive probably which chances were fortunate, which unfortunate. The unfortunate chance in the *Tali*, was commonly called *Canis*, or *Canicula*, or *Chius*; The most fortunate chance, *Venus*, or *Basilicus*. *f* *Lipsius* taketh them both for one, and that not without ground, if we compare *Horace* and *Plautus*; both of them treating of that old custom of throwing these Cock-all bones at their feasts, for the choice of their *Modiperator*, or Master of the feast, which should prescribe Laws for drinking to the whole company.

Venus arbitrium———

Dicet bibendi, saith *Horace*.

Facto Basilicum, propino magnum poculum.

Saith *Plant. curcul.* And why may not this cast be justly termed *Basilicus*, seeing the *Modiperator* hereby designed, was by the Grecians not only called *συμποσιαρχος*, but also *βασιλεὺς*, King, Prince, or chief Commander at the Table? This cast was then thought to be thrown, when all four Cock-all bones appeared not one like the other, but all with different faces. *g* *Venus consurgebat ex g* *Coel. Rhod. talis quatuor jactatis, ubi diversam omnes ostendissent faci-* 1.20. c.27.
em: with whom accordeth *h* *Turnebus*: *Venus erat, cum h* *Turn. ad. nullus eodem vultu stabat talus.* *Hercules* was also a lucky 1.5. c.6.
throw; but whether the same as *Venus*, I have not yet learned.

The games with the *Tessera* I make no question were divers; the ignorance of which, they being long since out of use, hath caused much obscurity in this matter: one Game there may seem to have been in use, where the just number of eight seemeth to have been the chief Cast: it was called *i* *Stesichorius jactus*, or *Stesichorius i* *Coel. Rhod. numerus.* The reason is rendred by *Rhodiginus*, because 1.20. c.27.
Stesichorius his Tomb, erected at great charges for greater

ter magnificence, *Ex octonis constabat omnibus*, i. e. consisted of many eights, to wit, eight *Angles*, or Corners; eight *Columns*; eight *Steps*, or Grieces. In their common game, the most fortunate throw is thought to have been three *Sices*, we call it in *Passage*, a *Royal-pass*, whence it was commonly called *Senio*.

————— *Quid dexter senio ferret*

Scire erat in votis, damnosa canicula quantum

Roderet, angustæ collo non fallier orca. Pers. Sat. 3.

Which one place of *Persius* giveth light to this in three things. First, That the winning cast was termed *Senio*: and if you make *Basilicus* a term common both to Dice and Cock-all bones, as *Venus* is, we may fitly render it a *Royal Pass*. Secondly, The losing cast, *Canis* or *Canicula*, in English a *Dog-chance*. Thirdly, The manner of their play, both in their Dice and Cock-all bones, was by casting them not immediatly out of their hand, but out of a dish or narrow-mouth'd vessel, that there might be fair play, without striking or cogging the Dye: this vessel *Persius* calleth it *Orca*, and describeth to have a narrow mouth, and a strait neck. *Horace* applieth it to the *Tali*, Sat. 7. l. 2.

Mitteret in Pyrgum talos. —————

Calling it *Pyrgus*, using the Greek word *πύργος* a Tower or Steeple, so called from *πῦρ* fire, because the form thereof being *acuminata*, resembleth the rising of fire: the word intimateth *Horace* his *Pyrgus* to have been of the like form with *Persius* his *Orca*. But to return to the Games; the chief cast, as I said, was thought to be when three *Sices* appeared: which opinion is strengthned, by that common Proverb: *Aut tres sex, aut tres tesserae*, i. e. either three *Sices*, or three *Aces*. And the first of these being the best, the other the worst chance in the Dice, the Proverb implieth thus much, I will put all to the hazard, I will win or lose all. This cast was also called *Midas*: for as *Khodiginus* speaketh, *In tesserario ludo Midas jactus*

jactus erat fortunatissimus: with whom accordeth k & Dempst.
Dempster, proving it out of *Suidas*: ant. Rom. l. 5.

Μιδας ὁ ἐν κούβοισιν ἐυεχλότατος.

C. I.

Midas in tesseris consultor optimus.

This name signifieth the best chance, yet was not appropriated to the *Tessera*, but sometimes also signified the fortunatest chance of the *Tali*. Likewise from that of *Mart. l. 13. 1.*

Senio nec nostrum cum cane quassat ebur.

It is noted by l *Erasmus*, that as often as an *Ace* hapned l *Erasm. adag*
to be thrown together which a *Sice*, so that *Senio* and *Ca-* Chius ad Co-
nicula appeared together at one throw, it was a losing um.

cast. *Suetonius* is clear in the proof hereof, if for *Aut* we substitute *Et*; which unless we do, it will be a matter of great difficulty to make congruity of sense. His words are, *Talis enim jactatis, ut quisq; Canem aut Senionem miserat in singulos talos, singulos denarios in medium conferebat, quos tollebat universos qui Venerem jecerat.* Turn *Aut* into *Et*, the sense is obvious. Look who threw an *Ace* and *Sice* together, for every Dye he staked and laid to the stake a Denier; which he took up and swooped all clean, whose luck it was to throw *Venus*. *Euripides*, as I take it, was not a chance, but a kind of game, much resembling that which is in use with us, called *one and thirty*: The number of that game was *forty*, and the game called *Euripides*, because *Euripides* was one of the forty chief Governours in *Athens*, when the thirty Tyrants were deposed. The reason of my conjecture is taken from n *Rhodignus*,
whose words are these: *Euripides numerum continebat* n Coel. Rhod.
quadragenarium, quoniam videtur unus fuisse Euripides præ- l. 20. c. 17.
fectorum quadraginta, post triginta Tyrannos Athenis ex-
ctos: from all we may note, that the *Jactus pronus*, or
Jactus plenus, that is, the lucky cast, we may English it,
Take all, was commonly called *Senio*, *Venus*, *Caus*; the
Jactus supinus, or *Jactus inanis*, was likewise commonly
known by no other name than *Canis*, *Canicula*, or *Chius*,
we may English it *Blank*.

Some

o Barthol. Merula in Ovid.
de art. amand.
l. 2.

p Lips. Sat. l. 2.
cap. 20.
q Suet. Aug.
72.

r Quint. l. 5.
cap. 14.

f Plaut. mil.
glor. Act. I.
scen. 1.

o Some have delivered their mind touching these Plays thus ; that the *Tali* or Cock-all bones had but four faces or sides, and therefore yielded four chances, and no more : the first is called *Canis* or *Canicula*, answering to our *Ace*, and it was the worst of all ; the opposite unto it they termed *Venus*, or *Cous*, and is accounted the best *Merula* against sense understandeth the number of seven by it, it may stand for our *Sice*. The third bore the name of *Chius*, proportioned to *Trey* with us ; and the last *Senio*, which is as much as *Quatre*. For in these *Tali* there is no chance of *Deux*, or *Cinque*. This opinion at first, I confess seemed plausible to me ; but how fully it discovereth the Game, and how agreeable it is to antiquity, let others judg. The chances of the Dice, or Cock-all bones, as they were termed *Factus* & *Missus*, casts ; so also were they called p *Manus*, figuratively, as every stroke in the Fencing-school was termed *Manus*. The first acceptation of *Manus*, is proved out of q *Suetonius*, where *Augustus Caesar* speaketh thus : *Si quas manus remisui cuiq; exegissem, aut retinuissem, quod cuique donavi, vicissem, &c.* If I had exacted those chances which I remitted every one, and kept that which I bestowed, I had gotten, &c. The second acceptation of *Manus* is confirmed by r *Quintilian*, who calleth the second, third, and fourth strokes in fencing, *secundas, tertias, & quartas manus*. Our English phrase is not much unlike ; He hath had a good or bad, lucky or unlucky hand. Another game there was of like nature played with Table-men : the word *Latrunculus* translated a Table-man, did properly signify an hired Souldier, such an one as served for pay : whence *Latro*, whose diminutive *Latrunculus* is, hath his denomination ἀπὸ τοῦ λατρεῖν, à *serviando*. In this sense the word is used f by *Plautus*.

Nam Rex Seleucus me opere oravit maximo,
Ut sibi latrones cogerem, & conscriberem.

Secondly, because Souldiers are so prone and apt to commit robberies : hence *Latro*, and *Latrunculus*, hath been used

used also to signify a thief or robber. And thirdly, in a borrowed sense, these words are applied to signify Table-men, or Chesse-men; because this game hath the express form or representation of a war or battel fought between two Armies; insomuch that *t* *Pyrrhus* King of *Epire*, being skilful in plotting stratagems, first taught his Souldiers that art of projecting, by plays and representations thereof in the table-men. *u* Some are of opinion, that it was first invented in the Siege of *Troy*, by *Palamedes*, who that he might keep his Souldiers in better order, allowed them this kind of recreation, whence these Chesse-men are sometimes called *Palamediaci calculi*: they were made sometimes of Wax, sometimes of Glass, sometimes of other matter. The game seemeth to have been the very same with that which we call Chess. Other games there were of lesser note for recreation, of which sort were principally these that follow. *Petaurum*, *Discus*, *Pila*, *Trochus*, *Nuces*. *πέταυρον*, from whence this Latine word *Petaurum* cometh, signifying properly a perch or pole, on which poultry roost: and hence the rope or staff on which light persons were wont to dance, and try masteries, was termed *Petaurum*. It signified also a certain hoop or wheel, through which active persons would run swiftly, their body so warily carried, that in their running they would not touch the hoop or wheel: to this purpose *Alex. Neoph.* speaketh, * *Fuit quoq; Petauri ludus admirationis precipua, cum per circulos quispiam veloci cursu transvolat, corpore ita librato, ut circulum non offendat.* Such tumblers as were practised in this kind of activity, were thence called *Petaurista*. *Discus* was a round stone in manner of a bowl, sometimes made of iron, or brass, whosoever could cast it farthest got the victory; the players thereat were called *δισκοβόλοι* from *δίσκος* and *βάλλω* to dart, or cast out any thing. *Pila*, it signifieth a ball, and of it there were divers sorts. 1. *Harpastum*, which we may english a *Foot-ball*. *b* This ball being put down in the middle, two companies of young men strove who should

t Donat. in Teren. Eun. Act. 4. sc. 7. ad illud, Idem hoc jam Pyrrhus fecitavit. *u* Suid. in voce *πέλας*.

* *Alex. ab Alex. l. 3. c. 21.*

b *Alex. ab Alex. ibid.*

Q

drive

drive it thorow the others goal. 2. *Pila*, which signifieth a distinct kind of ball, so called from the hair with which it was stuffed. 3. *Fallis*, a light kind of ball, so called because it was stuffed with a bladder; with this old men and young children played. 4. *Paganica*, this had his name à *pagis*, from villages and countrey-towns, where it was chiefly in use, it was stuffed with feathers; of all these *Mart.* 14. 45.

Hæc quæ difficilis turgēt paganica pluma

Folle minus laxa est, & minus arcta pila.

ε *Coel. Rhod.*
l. 20. c. 18.

d *Turneb. adv.*
l. 7. c. 4.

5. *Trigonalis*, and this I think both the *Pila* and the *Fallis* were called, in opposition to *Paganica*; the reason of the name is taken from the form of the Tennis-Courts, which because they were three-square, in manner of a triangle, hence was the ball with which they played in such Courts termed *Trigonalis*. The Players themselves were termed *Fastores*; those that did cast the ball into the Court, were called simply *Datores*; and hence *datatim laudare*, is to play at ball, or else we may imagine the reason of this phrase to be, because such as in their play by negligence did let down the ball, did *suram dare*, hold out their leg, to have the ball slung at it. *Trochus*, it signifieth a Top: as it was commonly called *Trochus* from τροχῶ to run, because of the swiftness thereof: and likewise *Turbo* in Latine for the same reason; so sometimes it was called *Buxum*, from the matter whereof it was made, as

— *Buxum torquere flagello.* *Perf. Sat.* 3.

Nuces, with Nuts they had many Plays, some of which are at this day in use. One holding an uncertain number of Nuts in his hand, his fellow that plaid with him was to divine whether the number were *Even* or *Odd*. This *Horace* calleth

Ludere par impar

The Grecians *ὑλὰ ἢ ἀλγυα*. Of this *Ovid de nuce*,

Est etiam, par sit numerus qui dicat an impar:

Ut divinitas auferat augur opes.

Some

Sometimes they piled their nuts, three beneath, and one on the top, in manner of a Castle: of this *Ovid* speaketh likewise,

*Quatuor in nucibus non amplius alea tota est,
Cum sibi suppositis additur une tribus.*

Yea, these nut-games were so many, and so peculiar to children, that striplings growing into mans estate, were still reputed children, untill they forsook these nut-sports, whence *nucibus relictis* sounds as much as childishness being past: and this is thought to be the reason, why the *e* bride-man, as soon as he was married, used to cast nuts among the people; intimating thereby a farewell to such childish pastimes. Many other childish games they had, among which one resembled our *Cross and pile*; *f* they termed it *Capita vel navim*; because the coyn which they flipp'd or tossed into the air, bore stamped on the one side *Janus* his two faces, on the other side a ship.

e Rosin. ant.
Rom. l. 5. c. 27.

f Anton. Constant. in Ovid.
Fast. l. 1.

C A P. 14.

De mensis & conviviiis Romanorum.

BEfore we proceed unto the description of the *Roman* tables, we will explain those five terms *Jentaculum*, *Prandium*, *Merenda*, *Ceno*, & *Commessatio*. Which five words do signifie the five severall feedings each day, which children, old men, labourers, travelers, and such like, did usually observe; for others of healthier and stronger constitution, did commonly eat but one meal, at the most but two, in the day. *Jentaculum* signifieth their break-fast, and it had its name, like as our English hath *à jejunio*, from fasting: In former times it was called ** silatum*, from *Sile*, the name of a certain herb, with the root whereof they were wont to season that wine, which they had at break-fast: for as *b Plutarch* saith, *b* their break-fast was nothing but a sop dipped in wine. In the same place he likewise saith, that in old time they had no dinner, but that which we call *Prandium*

*** Rosin. ant.
l. 5. c. 27.

b Plur. in sym.
l. 8. q. 6.

was the same with them as *Jentaculum*, and thus much the Greek word ἀεισον signifying a dinner, doth intimate, it being so called, *quasi* αὔριον, from αὔριον, which signifyeth the morning. The name *Prandium*, which we render a dinner, was so said *quasi* παρ' ἑσθιον, signifying Noon-tide, or Mid-day. The third time of taking meat, was called *Merenda*, we may English it our afternoons beaver; it was called also *Antecœnium*, because it was taken a little before supper. *c Merenda est cibus qui dec-*
cent. 1. ep. 65. clinante die sumitur, quasi post meridiem edendus, & pro-
xime cœne; unde & antecœnium à quibusdam dicitur. The fourth time was their supper, called *cœna*, *quasi* κοινή, which signifieth as much as *Common*, *d quia antiquitus*
d Plut. sym. 1.8. q.6. seorsim solebant prandere Romani, cœnare cum amicis. Their fifth and last time of feeding, was called in Latine *Com-*
e In orat. pro M. Cœlio. messatio by some, by most *comessatio*, à *comedendo*. *e Jo-*
f Lazius de Repub. Rom. 1.3. c.3. annes Tristinus saith, that it is a beaver taken after supper, or a night-drinking. But the chief Feast, whereat they *f* gave entertainment, being their supper, we will consider these three things therein. First, *accumbendi vel*
discumbendi rationem, that is, the manner of their lying at supper, (for they did neither stand nor sit at table, as we do): secondly, the form and fashion of their table; and lastly the parts of their supper. The place where they supped, was commonly called *Cœnaculum* à *cœna*, as our *dining Chamber* is so called from our dinner. It was also called *Triclinium*, or *Biclinium*, from κλίνη a bed; for sometimes there were 3 beds, sometimes but 2 about the table upon which the guests did sit, or rather lie along. In this dining Parlour was placed a table, sometimes made quite round, and for the common sort of people it was made of ordinary wood, standing upon three feet; but for Men of better rank, it was made of better timber, inlaid sometimes with wood of divers colours, sometime with silver, and it stood upon one whole intire foot made of Ivory, in the form of a great Lion or Leopard, &c. Unto the meaner sort of these tables *Horace* alludeth;

— *Modo*

——— *Modo sit mihi mensa tripes.* Hor. Ser. 13.

Unto the other, *Juvenal, Sat. 11. ver. 122.*

——— *putere videntur*

Unguenta atq; Rosæ, latos nisi sustinet orbes

Grande ebur, & magno sublimis pardus hiatu.

Sometimes this table was made in the form of an half Moon, the one part thereof being cut in with an arch or semi-circle, and then it was called *Sigma*, because it did much resemble the letter *Sigma*, *g* which as it appeareth by certain marble monuments, was in old time made like a Roman C. Hence is that of *Mart. lib. 14. 87.* *g Rom. ant. l. 3. c. 28.*

Accipe lunata scriptum testudine Sigma.

If any Man should demand the reason, why they cut their table in that form, I must confess I have not read any reason in any Author bearing shew of probability. My conjecture is this; it is agreed upon by most Authors, that in the round tables one quarter was reserved void from guests, that the waiters might have a convenient room to attend: thereupon it seemeth not improbable unto me, that this crooked arch was made for the waiters. I acknowledge that this *Sigma* hath been translated diversly by divers writers, as it appeareth by *Lipsius* in the fore-quoted place. By some it hath been taken for the Parlour, or supping-chamber, so *Lipsius* in his *Antiquities*; by others for the supper or feast it self, so *Cælius*. By *Lipsius* since it hath been thought a certain place, erected in the manner of a semi-circle, or half Moon, against which they did place one continued bed, able to take six or seven guests. But *Brodeus* and *Ditmarus*, in my opinion, have more truly taken it for the table it self. About the table that was perfectly round, were placed three beds covered with tapestry, or some other kind of covering, according to the wealth and ability of the person; and thus

——— *Strato discumbitur ostro:*

The beds being ready furnished, the guests lie down in manner as followeth. Each bed contained three persons,

sons, sometimes four, seldom or never more, except at their great and more solemn feasts. If one only lay upon the bed, then he rested the upper part of his body upon his left Elbow, the lower part lying at length upon the bed; but if many lay upon the bed, then the uppermost did lie at the beds head, laying his feet behind the second his back; the second rested his head in the others bosom, having a cushion put between, laying his feet behind the third's back: in like manner the third and fourth did lie. The number of the guests was not great, seldom times exceeding nine: whence *A. Gellius*

b A. Gel. Noct.

At. l. 13. c. 11.

Tribus aut no-

vem miscentur

cyathis pocula

commodis, qui

musas amat

impares, Ter-

nos ter cya-

thos attonitus

peter Vates,

tres prohibet

supra Rixa-

rum metuens

tangere Gra-

tia Nudis jun-

cta sororibus.

Hor. earm. l. 3.

Od. 19.

i Alex. Gen.

dier. 5. c. 22.

k Stuckius de

convi. l. 4. c. 2.

b saith, that the number of the guests should begin with the *Graces*, and end with the *Muses*, that is, they must not be fewer than three, nor more than nine. This also hath been the reason of that adage, *Septem convivium, novem convivium faciunt*. *Heliogabalus* seemeth to have been delighted with the number of eight, *k* whence he invited to supper *octo calvos, octo luscus, octo podagrosos, octo surdos, octo rancos, octo insigniter nigros, octo insigniter longos, octo prapingues, & octo nasutos, delectatus illo Greco proverbio, & πικρυτοντό*. Those that were not invited, but came of their own accord unto a feast without bidding, by *Plautus* they are called *Musca*, flies; by others they are called *Umbra*, shadows. Hence is that of *Horace*,

————— *Locus est & pluribus umbris.*

The party which invited the guests, sometimes expressed his earnestness by pulling and haling one by the cloak: whence *Stuckius* observeth, that when they would shew how earnestly they were invited; they would say *Penulam mihi scidit*, He tore my cloak off my shoulder. Again on the other side, when they would shew how easily the guest was intreated, they would say, *Illius ego vix tetigi penulam, tamen remansit*. Before the guests sat down, their shoes were usually pluck'd off, that they might not foul the bed on which they did lie;

l Teren. in
Heautont.

Accurrunt

Accurrunt servi, soleas detrahunt,

Video alios festinare lectos sternere, coenam parare.

m They did likewise gird their heads with Fillets and Hair-laces, as often as they intended to drink more than ordinary, thereby to prevent the vapours, which otherwise would annoy the head; for which reason, they did likewise *n* use Garlands of Ivy, and Myrtle-tree, and Roses: the coolness of which comforted the brain. These Garlands were also *Symbolum plene libertatis*, a token of their full liberty. The Carver in these Feasts was called from his artificial setting and ordering the Dishes upon the table, *Structor*: and from his artificial carving and cutting up of the Dish, *Carertor*. *Tryphaus*, as appeareth by *Juven. Sat. 11.* was famous for his skill in carving: he did set up a School, teaching such as came to him by Rules and Precepts, and also shewing them the manner of carving: which that he might the better do, he furnished a Table with several Dishes of Meat, formed and fashioned in Wood, with a dull Knife, shewing his Scholars after what manner, and with what gesture of their body they should cut up this or that Dish. This Supper because of the wooden Dishes of Meat was called *o Coena ulmea*. They divided their Supper usually into three parts, which they termed their first, second and third course. In the first course commonly was served Mulberries, Lettices, Sausages, and always Eggs: as likewise in the last course (whether the second or third) were served Nuts, Figs, Grapes, but always Apples: *p* whence we say proverbially, *ab ovo ad mala*, from the beginning of the Feast to the end: or simply from the beginning of any thing to the end thereof. The middle course was the main Supper, and the chief dish thereof was called *Caput coenae*: In *Lipsius* his phrase it was called *q Fundus & fundamentum coenae*. Their first mess they called the *proœmium*; the last, the *peilogue*: which because it consisted so much of sweet and delicious meats, hence did they apply that unto the

m Coel. Rhod. l. 27. c. 26.

n Plin. l. 6. c. 2.

o Stuck. de conv. l. 3. c. 3.

p Pancirol. l. rer. deperd. cap. de cibi capiendi modo.

q Stuc. 3. l. de conviv.

Turneb. adv.
l. 5. c. 10.

the second course, αἰ δευτέρῃσι φροντίδες σφάτεται, *Secundæ cogitationes sunt sapientiores*. If the table were well furnished with plenty and variety of dishes, it was called *Cæna recta*, or *Cæna nubia*: *Recta* in this place signifieth as much as *vera*: thus ὁρῶς among the Grecians sometimes signifieth *verus* & *sincerus*. The phrase intimateth that it was a true supper, opposed to that dole of meat distributed by Princes to the People, which from the pannyer or basket in which it was brought, was called *Sportula*; sometimes they distributed mony instead of meat, this also was named *sportula*: so that *sportula* denoted any kind of dole, either of meat or mony, which as often as it was given in lieu of a supper, it was opposed to *cæna recta*. Yea sometimes by *sportula* we may understand a light and short supper.

Promissa est nobis sportula, recta data. Martial.

The reason why a great Feast should be termed *Cæna dubia*, is, because in such variety of dishes the Guest is many times doubtful of which to begin. Contrary to this is *cæna ambulatoria*, a supper where one dish walketh through the Table.

L I B.



LIB. III. SECT. I.

Of the Roman Assemblies.

De Comitiiis.

Hitherto have we insisted upon the description of the most remarkable parts of the Roman City, together with the several divisions of the Roman People, as also the Roman Religion; where we have seen the general divisions of their Gods and their Sacrifices, with their Ceremonies thereunto belonging, and likewise of the Roman Games both greater and less. Now we are to proceed to that part of Government, which is Political or Civil: where we will first speak of their Assemblies called *Comitia*; then of their Civil Magistrates; afterwards of their Punishments; and lastly, of so many of their civil Laws, as I have observed needful for the understanding of *Tully*, and that principally in his Orations. For the more easy conceiving of all which, I have prefixed one Chapter of the Roman year, treating there of the *Calends*, *Ides*, and *Nones*; the knowledg of which is needful for that which followeth.

R

CAP^e

C A P. 1.

De Anno & partibus ejus.

* Vid. Plin. l.
7. c. 48.

b Paul. Mar. in
Ovid. Fast.
lib. 1.

INasmuch as there cannot be a full knowledg of the Roman Assemblies, without some general understanding of the Roman year, and the general distinctions of the Roman days; it cannot be but worth our labour in this short Chapter, briefly to consider what may be spoken therein. This word *Annus*, is so called, *quasi annulus*, because (as the Greek word ἐνιαυτός signifieth) ἐν ἑαυτῷ ἔσσι, *id est, in se convertitur annus*: which was the reason why the Egyptians in their mystical Cyphers (called *literæ hieroglyphicæ*) did use the picture of a Serpent, having his tail in his mouth, to signify a year. The time or space of this year hath been divers, according to the diversity of Nations. * Some allowed no more days to a year than we do to a month; whence that monthly space which the *Latines* called *Mensis* from *b μῆνι*; signifying the Moon, they called *Annum Lunarem*. Some allowed four months, some six months, some ten. And thus *Romulus* measured his year, counting the months either from the number of our fingers, or from the time that a Woman goeth with child, or from the time that a widow commonly mourned for her Husbands death; or lastly, from the multiplication of unites, which in simple number doth not exceed ten.

*Quod satis est utero matris dum prodeat infans,
Hoc anno statuit temporis esse satis.*

Per totidem menses à funere conjugis uxor

Sustinet in vidua tristitia signa domo. Ovid. Fast. l. 1.

Annus erat, decimum cum Luna receperat orbem,

Hic numerus magno tunc in honore fuit:

Sen quia tot digiti per quos numerare solemus,

Sen quia bis quino foemina mense parit.

Sen quod ad usq; decem numero crescente venit,

Principium spatii sumitur inde novis. Ovid. Fast. l. 3.

Thus

Thus *Romulus* his year contained of months ten, of days

304. But after this *Numa* added two months.

At Numa nec Janum, nec avitas praterit umbras,

Mensibus antiquis addidit ille duos. Ovid. l. 1. Fast.

Numa, c or as some say, *Tarquinius Priscus*, perceiving c Vid. Georg. Merulam in orat. pro Q. Ligario. that the months did not always fall out alike every year, but sometimes the same month would happen in the Summer, sometimes in the Winter, thereupon, after long study, and many instructions from the Grecians, finding the reason of this confusedness, he added unto *Romulus* his year fifty days, so that the whole year afterward was divided into twelve months; because the Moon had finished her course twelve times in that space; beginning their year then at *January*, because then in his judgment was the fittest time to begin the year, when the Sun being farthest from us, did begin to turn his course, and to come unto us again; which is about *January*, the Sun being about the *Tropick* of *Capricorn*. Afterward, upon a superstitious conceit of the odd number, *Numa* added one day more unto *January*; so that whereas at the first *Numa* his year did agree with the Grecian year, both of them containing three hundred fifty four days; now the Roman year contained three hundred fifty five days: which computation falling out too short for the true year by the space of ten days and six hours yearly, it occasioned in every eighth year the interposition of three whole months, which they called their Leap-year. d This confusedness afterward *Julius Caesar* by long d G. Merul. in orat. pro Q. Ligario. study remedied, adding the odd ten days unto *Numa* *Pomilius* his year. And lest the odd six hours might at last breed disorder in their computation, he appointed that every fourth year a whole day should be inserted, next after the three and twentieth of *February*; which inserting they called *Intercalatio*, from an old Verb *Intercalo*; and that day they called *Intercalarem*. Now the day following, being the four and twentieth of *February*, was always the sixth of the Kalends of R 2 March;

e G. Merul. in
orat. pro Q.
Ligario.

f Rosin. ant.
Rom. l. 4.

g Hubert. l. 3.
ep. fam. 18.

h Suet. Oct.
Aug. c. 17.

March; e and therefore because of the interposition of that day, they called the Leap-year *Annum bisextilem*, that is, the year wherein there falled out two days, which they called *Sext. Calend. Martii*. And the day thus interposed, was called *dies bissextus*. This computation, which *Julius Caesar* found out, we have embraced, and do at this day follow, calling our year *Annum Julianum*, f and *Annum magnum*, having relation to the monthly year called *Annus Lunaris*; and sometimes this great year is called, *Annus vertens*, à *vertendo*, because it is always turning and running on. g Moreover we must remember, that the Romans did begin their year at *March*; whence that month, which since hath been called *Julius* in the honour of *Julius Caesar*, was by them called *Quintilis*, because it was the fifth month; and that month which since hath been called *Augustus*, in the remembrance of *Augustus Caesar*, was by them called *Sextilis*, because it was their sixth month. Thus then the great year being divided into twelve months, every month was divided into three parts, *id est*, *Calendas*, *Nonas*, and *Idus*. The *Kalends* were so proper unto the Romans, h that *Augustus Caesar*, when he purposed never to do what he was requested, was wont by way of Proverb to say, that he would do it *Ad Calendas Græcas*, that is to say in our English Proverb, *At latter Lammas*; never. For the better understanding of which, I shall insert three common Verses:

Principium mensis nostri dixere Calendas:
Sex Majus Nonas, October, Julius, & Mars,
Quatuor at reliqui tenet Idus quilibet octo.

That is, the first day of every month is called the *Kalends* of that month. The 2, 3, 4, 5, 6, and 7, of these four months, *May*, *October*, *July*, and *March*, were called the *Nones* of that month: but in all the other months the *Nones* contained but the 2, 3, 4, and 5 days; so that the fifth day (for example sake) of *January*, was called *Nona Januariæ*, or *Januarii*, the fourth *Pridie Nonarum*, or *Nonas Jan.* for they used always to say, *Pridie Cal. Pridie Nonar.*

Nonar. and *Pridie Iduum*, instead of *secundo Cal. Non. Id.* The third day of *January* they called *tertium Nonarum*, vel. *Nonas Januar.* the second day of *January* they called *quartum Nonarum*, vel. *Nonas Januar.* After the *Nones* followed the *Ides* which contained eight days in every month, so that the 15 day of the four aforesaid months was called *Idus Maii*, *Idus Octob.* *Idus Julii*, and *Idus Martii*. In all the other months the 13 day was the *Ides*; as to proceed in *January*, the 13 day was called *Idus Januar.* the 12 *Pridie Iduum*, vel. *Idus Januar.* the 11 *tertio Iduum*, or *Idus Jan.* the 10 *quarto Iduum*, vel. *Idus Jan.* the ninth, 5 *Id. Jan.* the eighth, 6 *Id. Jan.* the seventh, 7 *Id. Jan.* the sixth, 8 *Id. Jan.* After the *Ides*, then follow the *Calends* of the next month. As the 14 of *January* was *decimo nono Calendarum*, or *Calendas Februar.* the 15 *decimo octavo Calend. Feb.* the 16 *decimo septimo Cal. Feb. &c.* Where we must note, that as often as we use *Pridie*, *tertio*, *quarto*, or any of those numerals with an Accusative case, as *Pridie Calendas*, &c. the Grammarians say, that this Preposition *Ante* is eclipsed. Again, every month had in its compass three great Markets, which because they were observed every ninth day, were called *Nundine*; and the later of them being the greatest it is called by *Athenaus* περί τῆς ἐκκλησίας, which we may render *Trinundinum*, or *Trinum nundinum*. It followeth now that I should treat of the days, which are the lesser part of the year: where before we proceed, we will consider the parts which the Romans divided their day into.

Dies

Dies Civiles continet

Lucem,
cujus
partes
sunt

Noctem,
cujus
partes
sunt

Diluculum. The break of day.
Mane. The full morning.
Ad meridiem. The forenoon.
Meridies, quasi Medius dies, Mid-day; or
quasi Merus dies, Perfect-day, noon.
De Meridie. After-noon.
Solis Occasus. Sun-setting.
Crepusculum. The dusk of the evening.
Prima fax. Candle-tinding.
Vesper. The night.
Concubium. Bed-time.
Nox intempesta. The first sleep.
Ad medium noctam. Towards midnight.
Media nox. Midnight.
De media nocte. A little after midnight.
Gallicinium. Cock-crowing.
Conticinium. All the time from Cock-
 crowing to the break of day.

g Alex. Gen.
l. 1. c. 12.

h Vid. Erasmi.
adag. unione
signare.

The Day and Night again were each of them divided into *primam, secundam, tertiam, & quartam vigiliam*, every watch containing three hours. The first of the night began at six of the clock in the evening, and the fourth ended at six of the clock in the morning. g These watches were distinguished by several notes and sounds of Cornets or Trumpets, that by the distinction and diversity thereof, it might easily be known what watch was founded. Moreover, we must understand that the Romans, upon a superstitious conceit and observation of misfortunes, and evil events falling out on some days, and more happy success upon other, have called the former sort of days *Atros dies*, or *dies postriduanos* & *Aegyptiacos*: ἀπόρροιας, Græci nuncupant, perinde ac si nefandos dicat. The reason why they were called *Postridui*, was because they thought *Dies postridie Calendas, Nonas, & Idus*, i. e. The next day after the Calends, Nones, or Ides of every month, to be unfortunate: and the latter sort they called *Albos dies*, h borrowing the name from the Scythians,

thians, who used to chalk out the fortunate days in their Kalendars with white Characters : whence *Horace* saith,

Cressa non careat pulchra dies nota.

Other-some, as their unfortunate and unlucky days, were noted with a coal or black Character, according to that,

—— *Nigro carbone notatas.*

Again, their Kalendar, distinguished some days for Holy-days, which they called *Dies festos*, festival days, or *dies Feriatis*, & *Ferias*, Holy days, ⁱ because they did upon such days *Ferire victimas*, i. e. offer up Sacrifices. Others were distinguished for working-days, which they called *Profestos*, *quasi procul à festis*. The third distinction was of half holy-days, which *intercidendo*, they called *Dies intercisos*, as it were days cut asunder : the one part of them being allotted for worldly business, the other for holy and religious exercises. ^k These *ferie* were either *privatæ*, and so they belonged sometimes to whole Families, as *Familie Claudie*, *Emilie*, *Julie*, &c. sometimes to private Persons, as every one his birth day, particular expiations, &c. or else they were *publicæ*, such as the whole Common-wealth did observe ; and they were of two sorts, the one called *Anniversarie*, which were always to be kept on a certain ^l day, and thereupon they were called *ferie stativæ* ; the other *conceptivæ*, which were arbitrary, and solemnized upon such days as the Magistrates and Priests thought most expedient, whereof the *Latine ferie* were chief : which *Latine ferie* were kept on mount *Alban* to *Jupiter Latier*, for the preservation of all the Latine People in league and confederacy with the Romans, and were solemnized in memory of the truce between those two Nations. Those *Ferie*, which were called *Imperativæ*, & *m Indictivæ*, because the *Consul*, *Prætor*, or chief *Pontifex*, according to their pleasure, *imperabant* & *indicabant* *has*, i. e. commanded them, may in my opinion be contained under that number of *Ferie conceptivæ*, in respect of the uncertainty of them. Another distinction of days is found in the *Roman Kalendar*, to have.

ⁱ Ascensus in
ep. 3. illust.
tit. l. 2.

^k Rosin. ant.
l. 4. c. 3.

^l Alex. Gen.
dier. l. 5. c. 7.

^m Alex. Gen.
dier. l. 6. c. 7.
Serv. *Æd. 111*

o Carminum
l. 2. Ode 13.

p Joach. Ca-
merar. pro
Flacco.

q Bersman in
suis annot. in
Rom. Caten.
ad finem Ov.
Fast.

have been in *Fastos*, whole Court or Leet-days; *Ex parte Fastos*, half Court-days; *Nefastos*, Non-Leet-days, tho this word *Nefastos* be often expounded unlucky, as in that of o *Horace* touching the Tree, *Ille & nefasto te posuit die*, that is, he planted thee in an unhappy time. These days were called à *fando*, from speaking; because upon those days which were *fasti*, the *Prator*, or L. Chief Justice might lawfully keep Court and administer Justice, which was not done without the speaking of these three words, *Do, Dico, & Addico*: p *Dabat, actionem*; *Dicebat jus*; *Addicebat tam res quam homines*. Where by the way we must note, that sometimes these Court-days were also called *dies Comitiales*, because that q upon every such day which was noted in the Kalendar for a Comitial day, if the publick Assemblies were not held, it was lawful to keep Court: whence not only *Comitialis dies* doth signify a Law-day, but *Comitialis homo* also doth signify a wrangler in the Law, or a litigious person.

C A P. 2.

*De Comitibus idque Calatis precipue; de Rogationibus,
& antiqua scribendi ratione.*

Very assembly of all the Roman people being called together by a lawful Magistrate to determine any matter by way of giving voices, is à *coeundo* termed *Comitia* simply, without the adjection of any other word, or *Comitia Calata*, that is Assemblies called together, from *καλέω* or the obsolete Latine Verb *Calo*, which signifieth to call; though afterward those Assemblies only which were held either for the inaugurating of some Pontife, some *Augure*, some *Flamen*, or him that was called *Rex sacrorum*, or for the making of their Wills and Testaments were called *Calata Comitia*. Whence the Will that was made in these Assemblies, was called *Testamentum Calatis Comitibus*. This kind of Assembly is sometimes called *Comitia * Pontificia*, and *Comitia Sacerdotum*, in that sense as others

* Joan. Tristi-
nus in orat.
pro Coelio.

others are called *Consularia*, or *Edilitia Comitia*, namely, because the Pontiffs in these, as the *Consuls* and *Ediles Plebis* in the other, were chosen. There follow three other kinds of Assemblies: for either the people did assemble themselves by Parishes, called *Curia*; or by hundreds, called *Centuria*; or by Wards called *Tribus*. The first sort of Assemblies they called *Comitia Curiata*, the second *Comitia Centuriata*, the last *Comitia Tributa*: *b* where by *b* Sigon. de ju-
the way we must note, that that thing which was deter- re Rom. l. 1.
mined by the *major* part in any Parish, Hundred, or Ward, c. 17.
was said to be determined by that whole Parish, Hundred, or Ward; and that which was determined by the *major* part of Parishes, Hundreds, or Wards, was said to be approved *Comitiis Curiatis, Centuriatis, vel Tributis*. Secondly we must note, that neither Children, until they were seventeen years old, nor old Men after the sixtieth year of their age, were allowed to suffrage in these Assemblies; whence arose that adage, *Sexagenarii de ponte dejiciendi* *c* Pars putat ut
and old Men were hence called *Depontati*, for the expli- ferrent juve-
cation of which see before. Here before we speak of nes suffragia
those three several kinds of Assemblies, we will consider soli: Pontibus
the manner of their proceedings, in propounding cases infirmos præ-
unto the Assemblies. *d* The custom was at first, that the cipitasse senes.
Romans should bestow their suffrages *Viva voce*; but af- Ov. Fast.
terward that every one might with freer liberty give his *d* Philip. Be-
voice, they commanded certain Wooden Tables, where- roaldus in
in the names of those that stood for Offices were writ- orat. Phil. 11.
ten, to be carried about; every suffrager receiving so many Tables as there were suitors; then did the people give back that Table with whom they would suffrage. But if a Law were to be enacted, then every suffrager received two Tables, in the one of which were written these two great letters V. R. in the other was written a great Roman A. those who delivered these Tables unto the people, did stand at the lower end of those bridges; (which were erected up for the suffragers to ascend unto the *ovilia*) whence they were called *à deribendo*, i. e. from distributing, *Deribitores*. At the other end of the
S bridges

e Plin. l. 13.
c. 2.

f Plin. l. 13.
c. 11.

Bridges were placed certain Chests or little Coffers, into which the suffragers which did approve the Law did cast in the first Table; those that disliked it, did cast in the second; for by those two letters, V. R. which were written in the first, is meant *Uti Rogas*, i. e. Be it as thou hast asked, this word *fiat* being understood; by A. in the second Table was meant *Antiquo*, i. e. I forbid it, the word signifying as much as *antiquam volo*, I like the old Law, I love no innovations. The Tables being thus cast into the Chests, certain Men appointed for that purpose in manner of Scrutators (they called them *Custodes*, and sometimes *e Nongenti*) did take the Tables out of the Chests, and so numbred the voices, by making so many points or pricks in a void Table, as they found Tables alike: which kind of accounting occasioned these and the like phrases; *Suffragiorum puncta non tulit septem*, and *omne tulit punctum*; where *punctum* is used for *suffragium*: The voices being thus numbred, it was pronounced by the common Crier what was decreed. Because the use of those Tables is now grown quite out of use, I shall make bold to insert that which with much labour I have collected out of several Authors touching these Tables. It is certain that a long time the use of Paper was not known, whence Men were wont to write sometimes upon the inward rinds of trees called in Latine *Libri* (so that to this day we call our Books *Libri*, because in old time they were made of those rinds of trees): sometimes they did write in great leaves made of that rush *Papyrus*, growing in *Egypt*, from which we have derived our English word *Paper*, and the Latine word *Papyrus*, now signifying Writing-Paper. Shortly after the invention of this Egyptian Paper, *Ptolemy* the King of *Egypt* restrained the common making thereof, because of the great emulation between him and *Euменes* King of *Pergamus* concerning their Libraries: not long after therefore *Euменes* having found out the making of Parchment, he made use thereof in writing, and called it from the place *Pergamenta*. At this time

time did the Romans use to write in Tables of wood, covered with wax, called in Latine *cerata tabulae*. They wrote their Wills and Testaments in Tables, *b Hinc secundum & contra tabulas bonorum possessio*; the possession of goods either according to, or against the Testator his Will. Because of the wax wherewith these Tables were covered, *cera* is often used in the same sense; *Heredes prima cera*, i. e. *prime tabulae*, & *in primo gradu instituti*, by which words I think are understood such heirs as *c Alexander* called *Heredes ex toto asse*, that is, heirs to the main Inheritance, opposing them to those which did receive only legacies, whom he called there *Heredes inima cera*, *secundos heredes*, & *ligatarios*. *d Sylvius* not upon improbable grounds doth think that *Tully* doth understand by *Heredes secundi*, such heirs as were nominated to succeed the chief heir or heirs, if they died. They wrote their accounts in Tables, hence *Tabulae accepti & expensi*, signifying reckoning-books. These count-books were *e of* two sorts, some monthly, without order or method, called *Adversaria*: *Quod adversa parte etiam scriptis implebantur*. Others perpetual, being the transcript of the former, called *Tabulae accepti & expensi*. They wrote their statutes also in Tables, whence *Tabulae publicae* are Englished Statute-books, or other Books of Record. Those writings or instruments, which the Senate or Emperour caused to be hanged up in the Market-place, to release and discharge any bankrupt from paying his debts, they termed *tabulas novas*, we may English them *f Letters of f* protection. They wrote their inventories of goods set to sale, in Tables calling them *Tabulas auctionariae*: yea they indited their Epistles and common Letters in Tables: insomuch that *Tabulae* are expounded missive Letters; and *Tabellarius*, which properly signifieth a carrier of Tables, is now used to signify a Letter-carrier: yet they *g* sometimes wrote also in plates of Lead, *eis* *ελασμος μόλυβδων γράφοντες*. And thus we may understand what *h Suetonius* meaneth by *charta plumbea*, concerning *h*

b P. Pillitar. in orat. pro A. Caccinna.

c Alex. Gen. dier. l. 1. c. 1.

d Fr. Silv. pro Cluent.

e Coel. Rhod. l. 12. c. 21.

f Fr. Syl. in orat. Catilin.

g Suidas in voce

h Suet. Ner.

i Plin. l. 13.
c. 11.

k Fr. Sylv. in
orat. Caril. 3.

l Just. Lips. Ep.
inst. c. 4.

m Cie. 4. in
Verrem.
n P. Pellitar.
in orat. pro A.
Cæcinnæ.

o Evid. rasin.
Adag.

p Herman.
Hugo de pri-
mascrib. orig.
cap. 9.
q Cic. orat.
cont. Catil.

cerning all these, i *Pliny* writeth excellently. Before the use and making of Paper was invented, Men wrote at first in Palm-tree leaves, afterwards in the rinds of certain trees; afterwards publick monuments were recorded in volumes or rolls of lead, at least private matters, on fine linnen or wax. k The manner how they sealed their letters was thus: they did bind another Table unto that wherein the inditement was, with some strong thread, sealing the knot of that thread with Wax; whence *Cicero* saith, *Linum inscidimus*, that is, we opened the letters; hence also is that of *Plautus*, *Cedo tucram ac linum age, obliga, obsigna cito*. t The impression was commonly their own image, or the image of some of their ancestors. The matter on which the impression was made, was not always wax, but sometimes a kind of tempered chalk, which occasioned that phrase of *Tullies*, m *Signum ille animadvertit in cretula*. n Lastly, they wrote their Books in tables, whence from them we do at this day call our Books *codices à candicibus*, *candex* signifying properly the trunk or stock of a Tree, whereof these Tables or Books were made. We must note withal, that they wrote not with Ink or Quill, but with an instrument of steel or iron, having o a sharp point at the one end, and being broad, yet keen and well edged at the other; with the sharp point they did write what they pleased, with the broad end they did scrape out what they had written: whence *Stylum invertere*, is to say and unsay a thing, to turn his punch the wrong end downward, as it were to scrape out that which one had formerly written. The *Romans* did afterward use instead thereof, an instrument made of bone, prohibiting the use of iron ones, as p *Isidore* noteth by that Law, *Ceram ferro ne cedito*. And as we use this word *Manus*, to signify the writing it self, according to that of q *Tully*, *cognovit manum, & signum suum*: so in the like sense we use this word *Stylus*, to signify the peculiar tenour or strain of phrase which any Man observeth in the composing of an Oration, Epistle or such like, in

in which sense Tully useth it, as the antitheton to *gladius* in that speech of his, *Cedat forum castris, otium militia, stylus gladio*, though in another place he useth it to signify, if not a sword, yet a pocket dagger, as, *Et si meus ille stylus fuisset*; *s* in which place *Stylus* doth signify as much *s* Cic. orat. as *pugio*. And here seeing we are fallen into the manner and custom of ancient writing, it will not be amiss to note, that usually at the end of their Books, they printed a little mark, which they termed *Coronis*. Those that interpret *Aristophanes*, describe that mark thus, saying, that it is *t Linea brevis ab inferiore parte flexa*. All agree in this, that it was some common and known dash usually subjoyned to the end of Books. *u* Others are of opinion, that the ancient Romans did in the like manner adorn the frontispiece, or beginning of their Books with the picture of an half-moon; which observation giveth light not only to that adage, ἀπο τῆς ἀρχῆς μέχρι τῆς ἐσχάτης, from the beginning to the ending; but also to that of *Martial*. l. 10.

Si nimius videor, seraq; coronide longus

Esse liber; legito pauca, libellus ero.

And that of *Ovid*.

Candida nec nigra cornua fronte geras.

For in *Turnebus* his judgment those half-moons prefixed were called *Cornua*. Howsoever this may be true touching the dash, or character at the end of the Book, and that it was termed *Coronis*; yet I doubt whether any such half-moon was usually prefixed in the beginning of Books, or whether such an half-moon were denoted by the Latin word *Coran*. More probable is his opinion, & who treating of this very matter, saith, that in old time a whole Book was written in one continued Page, neither did they then cut their Books into many leaves, and bind them up in that manner as we do; but that one intire Page in which alone the Book was written, was wont to be rolled up upon a staff, fastned at the end thereof, in manner as many large Maps are

NOW

now adays with us : hence it is à *volvendo*, that we call our Books *Volumina*, Volumes. This staff on which the Book is rolled was called *Umbilicus*; the same word signifieth a navel, which because it is the middle part, and as it were the centre of a Mans body, hence approved Authors use the word to signify the middle of any thing; and haply that name was first given this staff because when the Book was rolled up, the staff was the middle thereof: howsoever, because it was fastned always at the end of the Page, hence *Umbilicus*, especially when it is applied to a Book, signifieth the end thereof, as *Horace*, *adumbilicum ducere*, to bring to an end. The two pammels or ends of his staff, which did jet out and appear on each side of the Volume, they called *Cornua*; and they were wont to be tipt with Silver, or Gold, or otherwise adorned. The Title which was the beginning of every Book, was termed *frons*. This seemeth more probable than that of *Turnebus*, and giveth greater light to that of *Ovid*,

Candida nec nigra cornua fronte geras.

Now that we may proceed to the matter whence we have digressed, it remaineth that we should declare the manner how they enacted their Laws. All the Romans, though free Citizens, had not power and authority of preferring the Law, but only eight of their Magistrates, which they called *Magistratus majores*, namely the *Prætor*, the *Consuls*, the *Dictator*, the *Interrex*, the *Decem-viri*, the *Military Tribunes*, the *Kings*, and the *Trium-viri*: unto these eight were added one of those whom they entituled *Magistratus minores*, namely the *Tribunus plebis*. If any of these Magistrates thought it fit to prefer a Law, then did he first write it down at home, and consult with some Lawyer, whether or no it might be for the good of the Common-wealth, whether it should not weaken any former Law, or whether it was not formerly included in some other Law, &c. These and many other cautions were to be considered before it was preferred;

ferred; yea some would have the approbation of the whole Senate after the advice of their Lawyer, though divers times that hath been omitted: and the Lawyer alone allowing it, the Law was hanged out publickly in the Market-place for the space of three Market-days, which kind of publishing the Law, was termed *Legis promulgatio, quasi provulgatio*: during which time of promulgation, reasons were alledged *pro* and *con* by the spectators, and all the people had so much time as to consult of the conveniency thereof, and every one upon just reason had free liberty to admonish him that preferred the Law, either to amend it, or to surcease the proposall. After the third Market-day (for unless it were upon an extraordinary occasion, no assembly might be called upon a Market-day, because of the country folks businesses, they also having freedom of suffraging) the Magistrate did convocate the people to that place where the Law was to be proposed; there the Town-Clerk, or Notary, reading the Law, the common Cryer proclaimed it, then did he which promulged it, make an Oration unto the people, perswading them that it might pass. Sometimes others of his friends would second him with Orations in his behalf; as likewise others that dislike it, would by Orations dissuade the people, shewing the inconveniency thereof. After the Orations had been ended, an Urn or Pitcher was brought unto certain Priests there present, into which were cast the names of the Tribes, if the *Comitia* were *Tributa*, or of the Centuries, if they were *Centuriata*; of the Parishes, if *Curiata*: then *sortibus aquatis*, that is, the lots being shaken together, they drew their lots: and that Tribe or Century whose name was first drawn, was called *Tribus vel Centuria prerogativa, à prerogando*, because they were first asked their voices. *Turneb.* interpreting that of *Tully*, *Majores voluerunt prerogativum omen esse justorum comitiorum*, interprets it, That the Romans did so depend upon the prerogative Century, that they would always declare him *Consul* that was chosen by them,

q Rosin. ant.
l. 6. c. 7.

r Cic. pro
Muran.

f Huber. in
l. 1. cic. Ep.
serm. 2.

t Fuchsi inst.
medecin. l. 3.
sect. 1.

u Stadius in
Flor. l. 3. c. 7.
x Cic. orat.
Philip. 2.

them, *ad l. 5. c. 23*. That *Curia* upon which the first lot fell, was call'd *q Principium*, because that *Curia* did first suffrage those Tribes upon whom the other lots fell, namely the 2, 3, 4, &c. were termed *Tribus jure vocatæ*. From this distinction it is, that such a Man as hath the voices of the prerogative Tribe or Century is said to have *r Omen prærogativum*: which good fortune whosoever could attain unto, was in great hopes of obtaining the other voices of the *jure vocatæ*; for they never, or very seldom, would swerve from the determination of the prerogative Tribe or Century. Whilst the people were busie in their lottery, in the mean time if any *f Tribune* of the Commons would *intercedere*, that is, forbid the proceeding, he might be heard, and the whole assembly thereupon should be dismissed; likewise they were dismissed, if either he which first promulged the Law did alter his opinion, or if the Consul commanded supplications to be offer'd up in the behalf of their Emperour, or any of those holy-days, called *Ferie Latine vel Imperatorie*, to be observed upon that day, or if any of the people assembl'd were taken with the Falling-sickness (by reason whereof that disease is called by the *t Physicians* at this day *Morbus Comitialis*.) Lastly, the Assemblies were dissolved by reason of the Sooth-sayings, which kind of dissolution was caused, either by the civil Magistrates observing of signs and tokens in the Heaven, and that was called *Spectio*, and sometimes *De Cælo observatio*; the very act of this observation, though no unlucky token did appear, dissolved the Assembly: or else it was caused by the *Augures* and civil Magistrate promiscuously, whensoever any evil token was seen or heard, either by the Magistrate, or *Augures* (amongst which Thunder was always counted the unluckiest) at which time the Assemblies were in like manner to be dissolved. This manner of dissolution was termed *Obnunciatio* or *Nunciatio*, *u Obnunciabat, qui contra auspicia aliqua fieri nunciabat*. Both these kinds are easy to be collected out of that speech in *Tully*, *x Nos Augures Nunciationem solam*

solam habemus, Consules & reliqui magistratus etiam spectio-
nem. Here we may fitly in way of conclusion unto this
tract, add a just difference to be observed between their
phrases, *Promulgare, Rogare, Ferre, & Figere legem.* *Prom-*
ulgare legem, was to hang up a Law not yet asked, to the
publick view of the people, to be examined by them
touching the conveniency thereof. *Rogare legem,* was to
use a certain Oration unto the people, to perswade the
conveniency of the Law; which Oration because it began
with this form of words, *Velitis jubeatisve Quirites?* that
is, O ye Romans, is it your will and pleasure that this
Law shall pass or no? Hence was it termed *Legis rogatio.*
Ferre legem, was when the Law had been approved of by
the people, then to write it down upon Record, and so to
lay it up in the treasure-house: y *Cum approbata fuisset* ^{y F. Maturan-}
lex, in aes incidebatur, & in arario condebatur, & tunc de- ^{tius in Phil. 1.}
mun lata dicebatur. Lastly, *Figere legem,* was to publish
the Law after it had been approved and recorded z by ^{z Cor. Tacit.}
hanging it up in Tables of Brasse in their Market-places; ^{annal. l. 11.}
or at their Church-doors. Hence it is that we use * *Ta-* ^{* F. Matur. in}
bulam figere in the same sense, namely to enact or esta- ^{Phil. 12.}
blish a Law, and *Refigere legem,* to disprove or cancel a
Law. ^{b Sig. de jure} And that which was determined *Comitiis curiatis,* ^{pro l. 3. c. 1.}
was termed *Rex curiata*; that which was *Comitiis centu-*
riatis, Lex Centuriata; that which was *Comitiis Tributis,*
was not called a Law, but *Plebiscitum.*

C A P. 3.

De Comitiis Curiatis.

C*omitia Curiata* were those, wherein the Roman peo-
ple being divided into 30 Parishes, did give their
suffrages: They were so called from *Curia*, signifying a
Parish. And until *Servius Hostilius* his time, who did first
institute the *Comitia centuriata*, all things which were de-
termin'd by the suffrages of the people, were determined
by these *Curiata comitia*: But after the other two sorts

T

of

of Assemblies had been established, these *Curiata* were used only either for the enacting of some particular Laws, or for the creating of some certain Priests called *Flamines*. For the better understanding hereof, we must remember, that though at first these thirty parishes were parts of three Tribes (each Tribe being divided into ten Parishes) yet in process of time the increase of the *Roman* people was such, that a great part of the *Roman* fields were filled with buildings and places of habitation, infomuch that the Tribes of the *Romans* were increased to thirty five: but the Parishes (because none that dwelt out of the City were tied to the rites and ceremonies of the *Roman* Religion) did not increase, so that the Parishes did not always remain parts of the Tribes. Hence it followeth, that all the *Romans* had not power to suffrage in these Assemblies, but those alone who dwelt within the City, for no other could be of any Parish. The place where these Assemblies were held, was the great Hall of Justice, called from these Assemblies *Comitium*. Before these Assemblies were held, it was required that some lawful Magistrate for some competent time before-hand should solemnly proclaim them, and the thirty Serjeants (each parish having for that purpose his Serjeant) should call the people together: as likewise three *Augures*, or at least, one should be present to assure them, by their observations, either of the favour or displeasure of the Gods. Upon these premisses the matter was proposed unto the people, who if they liked it, then they proceeded unto their election; if otherwise they disliked it, then did the *Tribunus plebis intercedere*, that is, forbid their proceedings: whereupon their Assemblies were presently dissolved.

C A P. 4.

De Comitibus Centuriatis.

AS those former Assemblies were called *Curiata à curiis*, so were these called *Centuriata à centuriis*. *Servius Tullius* caused a general valuation of every Citizens estate throughout *Rome*, to be taken upon record, together with their Age, and according to their Estates and Age, he divided the Romans into six great Armies or Bands, which he called *Classes*; though in truth there were but five of special note; the sixth contained none but the poorer sort, and those of no worth or esteem. The valuation of those in the first *Classis*, was not under two hundred pounds; and they alone by way of excellency were termed *Classici*; and hence figuratively are our best and worthiest Authors called *Classici scriptores*, Classical Authors. *d* All the others, though they were in-^{d A. Gel. l. 7.} rolled in the second, third, or any other *Classis*; yet were^{c. 13.} they said to be *Infra classem*. The valuation of the second Band was not under seven score pounds. The valuation of the third was not so little as an hundred pounds. Of the fourth not less than forty pounds. Of the fifth not less than twenty five pounds. The sixth contain'd the poorer sort, whom *Horace* called *Tenuis census homines*, Men of small substance, and also they were called *Proletarii*, à munere officioq; prolis edenda, as if the only good that they did to the Common-weal, were in begetting of Children; and sometimes they were called *Capite sensi*, that is, such as payed very little or nothing at all towards Subsidies, but only they were registred among the Citizens, as it appeareth by *e Sigonius*. These six^{e Sig. de jur. Rom. l. c. 1.} great Bands or Armies were subdivided into hundreds, called in Latine *Centuria*. The first *Classis* contained four score Centuries of footmen, and eighteen of horsemen; the second contained twenty Centuries of footmen and two of workmen, which followed after to make

military Engines and Weapons ; the third also, as likewise the fourth, contained twenty Centuries of footmen, but to the fourth were added two other Centuries of Trumpeters, Drummers, and such-like, who upon just occasion did *Classicum canere*, sound the Alarm, and upon just occasion did again *receptui canere*, sound the retreat. The fifth *Classis* contained thirty Centuries of footmen : The sixth or last *Classis* contained one Century ; so that in all the 6 *Classes* were contained 193 Centuries : where we must note, that all the Centuries of footmen did consist, the one half in every *Classis* of the younger sort, who were to make War abroad upon the enemies ; the other half of old Men, who remained at home for the safety of the City. All that hath been hitherto spoken of these *Centuriata Comitia*, may be collected out of *Sigonius* in the place above-quoted. The chief Commander of every Century was called *Centurio* ; the rod or tip-staff wherewith he did strike his Souldiers to keep them in array, was called by *Pliny*, *Centurionum vitis*. So then we may perceive, that those *Centuriata comitia*, were those wherein the people did give their voices by Centuries or Hundreds. Now the Centuries did not consist of those alone which had their places of habitation at *Rome*, but of certain *Municipal States* also, and such Colonies or other States that could *d Plenum civitatis jus cum jure suffragii adipisci*. *e* Now the custom in old time was, that all these Centuries should march in their Armour after their Magistrate which assembled them into the *Campus Martius*, there to give their voices. But this custom continued not long ; for thereby they did disarm the City, and give their enemies (if any should assail them in time of their Assemblies) the greater advantage ; for their greater security therefore they appointed a Flag to be hanged out upon the mount *Janiculus*, some few armed Men standing there in watch and ward for the safeguard of the City ; and when the Assembly was to be dissolved, then did the watch depart, and the Flag was taken down : neither could

d Rosin. ant.

l. 6. c. 10.

e Rosin. ant.

Rom. l. 6. c. 16.

could any thing after that be determined ; but if they continued their Assemblies, then did they proceed to the giving of their voices, in old time thus : Those Centuries of the first Classis being the wealthier, had the prerogative of suffraging first ; and because this first Classis contained more Centuries than all the rest, therefore if they could agree among themselves, the other Centuries were never asked their voices. This kind of suffraging being somewhat partial, inasmuch as the richer and wealthier being placed in the first Classis, did oversway the Elections against the poorer sort of people, thence did the after Ages appoint that that Century should have the prerogative of suffraging first, upon whom the lot fell. The other Centuries were called *f. centuriæ Jure* f. Rosin. ant. Rom. l. 6. c. 20. *vocatæ*, and did give their voices, not by lots (as the *Tribus Jure vocatæ* did) but the elder and wealthier Centuries did suffrage next after the Prerogative Century, accordingly as their place required.

CAP. 5.

De Comitiis Tributis.

FOR the better understanding of these Assemblies by Tribes or Wards, it will be needful first to learn that this word *Tribus* in this place doth signify a certain Region, Ward, or local place of the City, or the fields belonging thereunto, according to that, *g. Tributa Comitia* g. A. Geld. 15. c. 27. *erant, cum ex regionibus & locis suffragabantur.* It was so called either *à tributo dando*, every several region or quarter paying such a tribute : or *quia primo tres tantum fuerunt*, the whole City being at first divided only into three Regions, or Wards, each national Tribe having his several region or local Tribe to dwell in. The first national Tribe called *Ramnenses*, did inhabit the Mount *Palatine*, and the Mount *Cælius*; and those two hills made the first local Tribe. The second national Tribe called *Tatienses*, did inhabit the *Capitol* and the *Quirinal* Mountain, which two

b Sigon. de
jure Rom. l. 1.
c. 3.

Mountains made the second local Tribe. The third national Tribe did inhabit the Plain between the *Capitol* and the *Palatine Hill*, and that Plain was called the third local Tribe. Of these Tribes more is spoken in the first division of the Roman people. Only here we must note thus much, that in process of time, after the City was enlarged, and the number of the Roman Citizens increased, these local Tribes were also augmented, so that they amounted at the last to the number of 35, some of them being called *Urbana*, others *Rustica*. h *Urbana ab urbis regionibus*; *Rustica ab agri partibus erant nuncupata*. And of those two sorts, the *Tribus rustica* were accounted the more honourable. Moreover we must remember, that a Man might be reputed of this or that Tribe, although he had no place or habitation therein. Concerning the place where these *Tributa comitia* were had, sometime they fell out to be in the *Campus Martius*, sometimes in their great Hall of Justice, called *Comitium*, sometimes in the *Capitol*; many times in other places, according to the discretion of the Magistrate which caused these Assemblies.

C A P. 6.

De Candidatis.

i Rosin. antiq.
Rom. l. 20. c. 6.

IT shall not be impertinent to annex some necessary observations touching the *Roman* Petitors or Suitors for bearing Office: where we will observe these three phrases, *Ambire magistratum*, *Inire magistratum*, and *Abire magistratu*. The first signifieth, to sue for an Office: the second, to enter in the Office: the third, to depart out of the Office. Again, the difference of the phrases, *Conferre legitima suffragia*, & *Explere suffragia*. i The first signifieth, to have so many voices as the Law doth require. The second signifieth, to have more voices than any other Competitor, but not so many as the Law requireth.

These persons were termed *Candidati*, à *toga candida*, from the white Gown which they did wear, as it appear-
eth

eth more at large, where we have spoken *de Romana toga*. That they might the easier procure the good-will of the people, these four things were expected from them, First, *Nomenclatio*, *b* the saluting of every Citizen by his name, for the better discharge of which, they had a certain follower, which should by way of prompting, tell every Citizen his name as he passed by, and hence this prompter was sometimes called * *Nomenclator*, which word doth properly signifie a common Crier in a Court of Justice, such as call Men to their appearance, whence they had their names from *Nomen* and *calo*, an old Latine word to call; sometimes *b* *Monitor*, sometimes *Fartor ab infarciendo in aures*. 2. *Blanditia*, that is, a friendly compellation by the addition of some complemental name, as well-met friend, brother, father, &c. 3. *Affiduitas*, that is, an hot canvassing, or soliciting men without intermission. Lasty, *Benignitas*, a bountiful or liberal largess or dole of Money called *congiarium*, from the measure *Congius*, containing a Gallon; because their *l* dole was at the first made of Oyl or Wine distributed in those measures. Howbeit *καταχρηστικῶς* any dole, grist or largess in mony, or otherwise, is called *Congiarium*. The distributors of this dole were called *m* *divisores*, & *n* *sequestres*, although sometimes *sequester* signified a briber or corrupter of a Judg. Likewise their bounty or liberality consisted in providing great Dinners, and exhibiting magnificent Shews unto the people, &c. Where we must observe, that as often as this largess is called *Largitio*, it is taken in the worst sence, namely for an unlawful bribing of the suffragers under a pretended largess, *o* *Benignitas liberalitatem magis significat quam largitionem*.

b Rosin. ant.
Rom. l. 7. c. 8.

* Cic. orat.
pro L. Mur.
Mercenur
servum qui
dicet nomi-
na, &c.
Hor. l. Ep. 6.

b Cic. loco
supra citato.

l G. Trapez.
in Philip. 2.

m Sig. de Jur.
l. 2. c. 29.
n Bart. Lat. in
orat. pro M.
Coel.

o Cic. orat. pro
L. Muræ.

C A P. 6.

De Romanis vestibus.

WE may observe in reading old Authors, that as well the Romans as the Grecians, had divers distinct

strict habits, or outward vestiments. The Grecians had their Mantle called *Pallium*, the Romans their Gown called *Toga*: and by this different kind of Garment the one was so certainly distinguished from the other, that this word *Togatus* was often used to signify a *Roman*, and *Palliatus* a *Grecian*. *f Togati pro Romanis dicti, ut Palliati pro Grecis*. Before we proceed, we will first observe what this *Toga* was, and then how many sorts there were.

f Sig. de Jud.
l. 3. c. 19.

g Mic. Tox. in
orat. Phi. 2.

g Toga, à tegendo dicta est. It was made commonly of Wool, but, according to the worth and dignity of the person, sometimes of coarser, sometimes of finer Wool; as we may collect by that of *Horace*.

*Mihi sit toga, quæ defendere frigus,
Quamvis Crassa, queat.*

Mic. Tox. ib.

We must note with *Toxita*, that no Woman of any credit did wear the Roman Gown, but instead thereof did use a garment called *Stola*, from *στέλλω*, signifying *demitto*, *quod usq; ad talos demitteretur*: Whence old Poets, when they would point out unto us an infamous or lewd Strumpet, they would term her *i mulierem togatam*. *k* This *Toga* sometimes was worn open and untuckt; then was it called *Toga aperta*: other times it was tuckt up, and then it was called *Toga præcincta*. This cincture or girding up of the Gown, was according to *l Sigonius*, threefold; *Cinctura laxior*, *astriictior*, and *Cinctus Gabinus*; *Cinctura laxior*, or the loose kind of girding was such, that notwithstanding the tuck, yet the tail trailed on the ground; *Cinctura astriictior*, the close kind of girding was such, that after the Gown had been lapped, or tuckt up, it should not reach so far as the feet. The first kind of these cinctures did argue a remiss, soft, and effeminate mind: the latter did signify the promptness or readiness of the person. *m Unde, Alte præcincti, pro expeditis dicti sunt*. 3. *Cinctus Gabinus* was a war-like kind of girding, not so that the whole Gown should be tuckt up about the middle, but that it being cast quite backward, the party should gird himself with one skirt thereof

i Rosin. ant.
Rom.

k Sig. de Jud.
l. 3. c. 19.

l Sig. ib.

m Sig. ib.

of. ⁿ This kind of girding was so called from a certain ⁿ Serv. Æneid. City of *Campania*, called *Gabii*, because upon a time the ^{lib. 7.} inhabitants of this City being at sacrifice, were set upon by their enemies, at which time they casting their gowns behind them, and girding one lappet or skirt about them, went immediately to war, even from the altars, and got the conquest. ^o In memory of which ever after, ^o Alex. Gen. the *Consul* when he should proclaim war, girded himself ^{dier. l. 1. c. 14.} in like manner. Neither had the *Consul* alone a peculiar garment when he proclaimed war, but every Souldier in time of war did wear a different kind of garment from the gown, which they called *Sagum*: we may English it a Souldiers coat. Whence *Tully* useth this phrase, *Ad sagam ire*, which *Erasmus* hath parallel'd with this, *Ad certamen se accingere*, to buckle for war. Insomuch that *Cedant saga toge*, is equivalent to that of the Orators, *Cedant arma toge*. Touching the difference of the Roman Gowns, I find them distinguished by ^p *Sigonius* according as followeth; in *Togam puram Candidam, Pullam, Prætextam, Paludamentum, Picam, Trabeam*. *Toga pura* was the common ordinary gown worn by new married Women, and *Tanaquill prima texuit rectam tunicam, qua simul cum toga pura tyrones induuntur, novæq; nuptæ*, *Plin. l. 8. c. 48.* and by private Men at Mans estate, about the sixteenth year of their age, at which time they were said *Excedere ex ephebis*, that is, to be past striplings, Notwithstanding the sixteenth year was not always strictly without exception observed: ^q for *M. Aurelius* was permitted ^q *Rosin. ant. l. 7. c. 30.* to wear this gown being but fifteen years old: and *Ca- ligula* did not wear it till the nineteenth year of his age. This kind of gown beside that it was called *Pura*, was also sometimes called *virilis*, sometimes *libera*. It was called *Pura* in respect of its pure white colour, being free from all admixtures of purple, or any other colour: and thereof some have termed it *ὁλόλευκον*, all white, others *ἄπορφυρον*, void of purple. It was called *virilis*, because it was given to striplings, now growing to Mans estate.

U

Whence,

Et toga non
tactas vincere
jussa nives.
Mart.

r Rosin. ant.
Rom. l. 5. c. 32.

Aldus Manu.

t Cic. in orat.
pro Cœlio.

u Sig. de Jud.
l. 3. c. 19.

Whence we use to say of a stripling past sixteen years of age, *virilem togam sumpsit*, he is now become a Man. Lastly, it was called *Libera*, r because then they did receive some beginnings of freedom, as being about that time freed from their Schoolmasters and Overseers. This kind of Gown was not made open, but sewed down to the bottom, and also it was made without sleeves, so that if at any time they had occasion to use their arms, they would take up their Gown and cast it quiet behind them, or upon their shoulder. But these striplings could not for one whole years space, cast back their Gowns in that manner for their liberty of their arms without the imputation of immodesty, as appeareth by t Cic. *Nobis annus erat unus ad cohibendum brachium toga constitutus*. The like liberty it seemeth was denied those that stood for places of office : u and hence it is, that *Horace* wisheth such to hire them a servant,

——— *Levum*

*Qui fodiat latus, & cogat trans pondera dextram
Porrigere*———

x Sigon. ib.

y Sig. ib.

In which place by *Pondera* is understood the Roman Gown, as x *Sigonius* hath expounded that place. Now for the understanding of *Toga Candida*, we are to learn a difference between this *candida toga*, and the *toga pura* above spoken of, which is sometimes called *toga alba*, both of which were white, but differed in the degree of whiteness. The *toga alba* had only the natural whiteness of the wooll, the *toga candida* had an artificial white dye, whereby the gloss of the white was made more orient and intensive. Or else as y *Sigonius* hath observed out of *Isidor*. *Intendende albedinis causa cretam addiderunt*, that is, they chalked it to increase the whiteness hereof. And hereunto *Persius* alludeth :

——— *Quem ducit hiantem Cretata ambitio.*

Whence *Polybius* calleth it *togam λαμπρην*, that is, shining or splendent. Moreover, whereas the *alba toga* was the ordinary Roman gown which commonly the Roman Citizens

Citizens did wear, this *Candida toga* was only worn by those that did *Ambire Magistratum*, sue for a Magistracy or place of office, who during the time of their sute, were called from their Gown, *Candidati*: and *Quintilian* borrowing his metaphor from them, hath called a young student *eloquentiæ candidatum*. The third sort of Gown, which I termed *Togam pullam*, was a black Gown, and thereof were two several kinds: the one cole-black, which was worn *luctus causa*, in token of mourning; and the mourners were thence called *Atrati*, and as often as they did wear this gown, they were said *Mutare vestem*, & which phrase in old Authors, doth signifie nothing else but to go in mourning apparel: The other not cole-black, but only foul'd or stain'd, and that was worn *reatus causa*, in times of arraignment, and those that wore it, were called *sordidati*, à *sordibus in veste*, from the spots or stains in the gown. Where we must note, that in process of time *Toga pulla* became the ordinary gown which the common people did wear, at which time the ordinary gown which the Citizens of better place and esteem did wear, was the *toga candida*; whereupon there did then grow a distinction of the Citizens, unknown to the former age, saith *Rosinus*, namely, that some were termed *candidati*, others *pullati*: *Candidati* were those, not which became suters for places of office (as in old time it signified) but those which did live in better repute than others; from whence it is, that * he whose office was to read the Emperors Letters in the Senate, was called *Candidatus principis*, or *Questor candidatus*. It did somewhat resemble the office of the King his Majesties chief Secretary. *Pullati* were those of the commonality or inferiour sort. The fourth sort of gown was the *Toga prætexta* so called *qua ei purpura prætexta erat*, because it was guarded about with purple silk. This kind of gown at first was used only by the *Roman* Priests, and chief Magistrates: Neither was it lawful for such as did wear that gown to be arraigned, or sentence to be given on them,

2 Sig. de Jud.
l. 3. c. 19. Cic.
orat. pro P.
Sext.

Suum dolo-
rem vestem u-
tata significa-
bant Romani.

* Feneft. de
Mag. Ro. c. 3.

b Pet. Pelita-
tius in orat.
pro A. Cecin.

c Alex. Gen.
dier. l. 5. c. 18.
d Sig. de Jud.
l. 3. c. 19.
e Sigon. ib.

f Rosin. antiq.
l. 5. c. 31.

g Sig. de jud.
l. 3. c. 19.

h Scriv. Anei.
lib. 7.

i Alex. Gen.
dier. l. 5. c. 18.

until that gown was put off. In continuance of time this *toga pretexta* was permitted first to Noble-mens children, afterward to all Roman children in general : whereupon *b Togatus à pretexto differt ut privatus à Magistratu, & vir à puero* ; and *atas pretexta* is taken for child-hood, and *prætextati* sometimes for Magistrates, but commonly for young children. The fifth sort of gown was called *Paludamentum* ; it was a military garment, which *c* none but the Lord General, or the chief Captains did use to wear. *d Isidorus* saith it was not only garded with purple, but with scarlet and gold lace : whence it was sometimes called *e Toga purpurea*, sometimes *coccinea*. It was much like the habit which the Grecian Emperour was wont wear, called *f Chlamys* ; yea now it is called *Chlamys* ; we may English it an *Heralds Coat of Arms*. The sixth sort of gown was *Toga picta*, *g* because in it were imbroidered goodly pictures with needle-work : It was also called *Purpurea*, not because of any purple-gard (in which respect the *Prætexta*, and the *Paludamentum* were called *Purpurea*) but because it was all over of a purple dye : it was by some termed *toga palmata*, because in it many Palm-branches being the reward and token of Victor were wrought, whence by others it was called *toga triumphalis*, because Emperours in their triumphs did wear such gowns. The last sort of gown was *Trabea*, whereof there were *h* three several kinds ; the one woven all of purple which was consecrated unto the Gods : the second was purple woven upon white, and this only Kings and Consuls might wear : the third was scarlet woven upon purple, and this the *Augures* only did wear. *i* This last sort was therefore called *Trabea auguralis*, the second *Trabea regia*, the third *Trabea consecrata*.

C A P. 8.

De Tunica.

THose Coats which were worn under the Gown, were called *Tunica*, and that they were worn under the Gown, appeareth by that adage, *Tunica pallio prior est*, that is every one for himself first; or according to our English Proverb, Close sitteth my Shirt, but closer sitteth my Skin. *k* This *tunica* was both narrower and shorter than the gown: at first it was made without sleeves, afterwards with sleeves, and by it as well as by the gown, were Citizens distinguished. The first sort of Coats was made of white cloath commonly, *l* but purled over and imbroidered with studs of purple in manner of broad nail heads; whence it was called *Laticlavia*, or *Latus clavus*; and the persons wearing this Coat were Senators, called thence *Laticlavii*. The second sort belonged unto the Roman Knight, and it differed in making from the first, only that the purple studs or imbroidered works of this, were not so broad as the former: whence the Coat was called *Angusticlavia* or *Angustus clavus*, and the persons wearing it were called *Angusticlavii*. The third sort belonged unto the populace, or poorer sort of Romans: it was made without any purled works, being called *Tunica recta*. This Coat was given together with the *virile* gown to striplings past sixteen years old, and to new married women. And as the *recta tunica* was given with the *virile* gown; so was the *tunica clavata* given together with the *toga pretexta*; and the *laticlavica*, otherwise called *tunica palmata*, given with the *toga picta*. The fourth and last sort belonged unto Women, being a long Coat reaching down unto the heels: they called it *Stolam*. Upon it they did wear an outward garment *m* called *pallium*, and sometimes *palla*, *quia palam gestabatur*. *n* Sigonius saith that this *palla* was a certain gown used by stage-players; howsoever certain it is that

k Sig. de jud. l. 3. c. 20.

l Salmuth. in Pancirol. lib. rerum deperdit. c. de fibul.

Vid. Turneb. advers. l. 1. c. 2.

m Rosin. ant. l. 5. c. 25.

n Sig. de jud. l. 3. c. 19.

not

o Sig. ibid.

p Sig. ibid.

not only Women, but Men also and children did wear this kind of garment. Besides the *Roman* gown and coat, there remain other parts of their apparel to be spoken of; such are these which follow: *Lacerna*, which some do English a Cloke, but *o Festus* would have it to be a little kind of hood, which Men should wear to defend themselves from the rain and weather: it was made that either side might be worn outward: and at first it was worn only in war, so that *lacernati* stood in opposition with *togati*. p *Isidorus togatos pro urbanis, lacernatos pro militibus usurpato scribit*. Afterward, as we may conjecture, it was made longer, in manner of a cloke, for it was divers times worn upon their coats instead of gowns. Another kind of garment was the *Penula*, so called *quasi pendula*, we may translate it a long hanging cloke. A third was called *Mitra*, which sometimes did signifie a certain attire for womens heads, as a Coif, or such like: though this kind of attire was more properly called *Calantica*: other times it signified a girdle, which more properly was called *Zona*: this *Zona* chiefly signified a Souldiers Belt, or a marriage girdle. The Souldiers Belt was lined within in the inside, where when they went to War they did put their mony: whence *Horace* saith of a Man that had lost his mony, *Zonam perdidit*: and ζώναν ἀρᾶν, to be girt, signifie ἑνδύσαι τὰ ὀνόματα, *Arma induere*, *Cæl. Rhod. l. 22. 19.* haply because that part of the body which was girt was consecrated to *Mars*, as the forehead was to every Mans particlar *Genius*, the arms to *Juno*, the breast to *Neptune*, the reins to *Venus*, the feet to *Mercury*, and the fingers to *Minerva*. *Alex. ab. Alex. l. 2. c. 19.* Young maids when they were married were wont to have a marriage girdle tied about their middle, which their husbands at the first night of their marriage should untie: whence *zonam solvere*, hath been translated to deflower a Virgin. This marriage girdle in former times was called *Cestus*, from whence cometh the Latine word *Incestus*, and the English word *Incest*: which in truth

truth signifyeth all kind of pollution committed, by undoing, or untying this Girdle, called *Cestus*: But now in a more strict acceptation it signifyeth only that kind of naughtiness which is committed between two of near kin; *q* and that other folly which is committed with a strangers Wife, is now properly called *Adulterium*; and that which is committed with a maid or widow, *stuprum*. The last thing touching their apparel is their shoes. *r Cal.* *q* Cael. in orat. pro Milone. *r* Rosin. ant. Rom. l. 5. c. 36. *ceamentorum genera duo fuerunt, calceus, & solea*. For the soal of the shoe, called in Latine *solea*, sometimes *crepidula*, and in *Cicero* his time *gallica*, was tied on to the bottom of the foot with leathern straps or buckles, and so worn instead of shoes. The divers kinds of these shoes did distinguish the Roman people also. To omit the difference in colours, we may reduce the chief kinds to five heads, *Mullei*, *Uncinati*, *Perones*, *Cothurni*, *Socci*, all these sorts of shoes were made half way up the leg, as the Turkish shoes are, according to *Iosephus Scaliger*; and they were either laced close to the leg, as many of our boots are now adays, or clasped with taches, or hasps. The first sort called *Mullei*, *f* from the fish *Mullus*, being like unto it in colour, were also called from their clasp *t calcei lunati*, because the clasps were made in form of a half-Moon, which half-mooned clasp resembling a Roman C, signified a hundred, *u* intimating thereby that the number of the Senators (they only being permitted to wear that kind of shoe) were at first a full hundred and no more. Others are of opinion that they wore this mooned clasp, to put them in mind that the honour to which they had attained, was mutable and variable as the Moon. For they think that these *Lunati calcei* were not received as a token of Nobility only at Rome, but in other places, to which purpose they interpret that of the Prophet, *Esai. cap. 3. In die illo auferet Dominus ornamentum calceorum & lunulas*. *Cal. Rhod. lect. ant. l. 20. c. 28. Uncinati calcei*, were those, which the Souldiers were wont to wear. I take them to be the same with those

f Salmut. in Pancir. lib. rer. deperd. c. de Fibula. *t* Appositam nigræ lunam subtexit alutæ. Juv. *u* Salmut. in Pancirol. lib. rerum deper. c. de Fibul.

x Salmuth. in
Pancirol. lib.
rer. deperd.
c. de fibula.

those which they called *Caliga*, from which kind of shoes *C. Caesar Caligula* had his name, because he was born in the Army *Quia natus in exercitu fuerat, cognomen calceamenti militaris, i. e. Caligula sortitus est. Aurel. Vict. Epit. de vita Imperat.* *Perones* (as we may conjecture) were laced up the leg: for *Tertullian* making but twosorts of shoes, saith, There were the *Mullei*, called from their clasps, *Lunati*, and these *Perones* made without such half-mooned clasps, called also *Calcei puri, quoniam ex puro corio facti*, and these *Perones*, or *puros calceos* all the other Romans did wear, x with this note of distinction, that the Magistrates shoes were beset with precious stones, private Mens were not. Thus much concerning both the kinds and fashion of the shoes may be collected out of *Rosinus* in the place above quoted. The description and use of the *Cothurnus* and *Soccus*, may be seen in the Tract *De Romanis Ludis*.

L I B.



LIB. III. SECT. II.

Of the Roman Magistrates.

CAP. I.

De Magistratibus Romanis.

WE being to treat of the *Roman* Magistrates, will first see what the definition of a Magistrate is. A Magistrate is he *o* who receiveth by publick authority, the charge and oversight of human Affairs belonging to the Common wealth. These *Roman* Magistrates were either to be chosen, only out of the better sort of *Romans*, called the *Patricii*, or else only out of the Commonalty. *p* The first were thence called *Magistratus patricii*, the second *Magistratus Plebeii*. The *Patricii* had power to hinder the Assemblies of the people; namely, their *Comitia*, by observing signs and tokens from the Heavens: howbeit some of them had greater power, others less, infomuch that some were called *Majores Magistratus*, *quoniam habebant majora auspicia*, id est, *q* *magis* *q* *Fenest. de rata*. Others were called *minores magistratus*, *quoniam habebant minora auspicia*. Of these in their order.

o Sig. de jur. Rom. l. 1. c. 20.

p Sig. de jur. Prov. l. 3. c. 1.

q Fenest. de Magistr. Rom. c. 1.

X

CAP.

C A P. 2.

De Rege & Tribuno Celerum.

Plutarch. in
Romulo.
f Plin. l. 33.
c. 2.

IN the infancy of Rome, it was governed by a King unto *Tarquinius Superbus* his time, who by maintaining that shameful act of his Son towards *Lucretia* did so insense the people, that they did not only for the present exile him, but decreed that their City should never after that be governed by a King. This King had absolute rule and government over the City. For the safety of his person he had three hundred chosen young Men always to be attendant about him, much like unto our Kings Majesties Guard here in *England*, or rather his Pensioners. They were called *r Celeres à celeritate*, from their readiness in assistance: sometimes they were called *Trossuli*, f because they alone without the help of any foot-men did take a certain City in *Etruria* called *Trossulum*. Othertimes they have been called *Flexumines*, whereof as yet there hath been no certain reason rendred. Each hundred of them had their severall Overseers called *Centurio*: and over them all there was one general Overseer, and chief Commander whom they called *Præfectum vel Tribunum Celerum*, his place being next to the King. A second sort of attendants about the King were called *Lictores à ligando*, according to that, *Lictor colliga manus*. They were by the *Grecians* called *ῥαβδῶνται*, which we may render Virgers, from *ῥαβδος* a Rod, and *ἔγω*, to have: tho sometimes *ῥαβδῶνται*, do signify the same as *ῥαψῳδοὶ*, the Rehearsers of *Homers* verses or in general of any other Poets: *ὡς τὸ ῥαψῳδοὶ ἀδῶντες* from patching together other Mens Poems. For the Reciters of *Homers* verses were wont to hold a Rod or Wand in their hand during the time of Rehearsal. *Cæl. Rhod. l. c. 19*. They did somewhat resemble our Serjeants, there being in number twelve of them. Their office was to carry certain bundles of birchen-rods, with an axe wrapped up in the midst

midst of them: the rods in *Latine* were called *Fasces*, the axe *Securis*. The reason why they carried both axes and rods was to intimate the different punishment that belonged to notorious and petty Malefactors. The reason why they were wrapped up together, was not only that they might thereby be more portable, but that the anger of the Magistrates might be somewhat allayed, whilst they were unbinding. Hence because these *Fasces virgarum & securium*, did betoken honour and chiefdom in place and authority, by the figure *synecdoche*, this word hath been used to signify honour and dignity, as *Fascibus suis abrogatis*, he being discharged of his Magistracy or Dignity. And *Fasces submittere* to give place, or yield unto. *Valerius Publicola* gave the occasion of the Proverb. He to insinuate himself into the hearts of the people, is said, *Submittere fasces populo quoties prodiret in concionem*. Some interpret it, as if he were wont to command the Serjeants quite to depart out of the Assembly with their rods, which opinion *Plutarch* in *Publicola* confuteth writing thus. Αὐτὸς τε τὰς ῥάβδους εἰς ἐκκλησίαν παρέων, ὑφῆκε τὰ δῆμῳ κατέκλινε, *Fasces ipsos in concionem progressus populo submitit inclinavitque*. So that the phrase signifieth properly the not holding up of the rods, or rather the laying them down as it were at the feet of the people. *Cæl. Rhodig. l. 12. c. 7.*

CAP. 9.

De Senatu, & quis Princeps Senatus, & qui Senatores Pedarii.

Touching the election of the *Senators*, the number of them, and the distinction of them into *Senatores majorum* and *Senatores minorum gentium*, sufficient hath been delivered in the second division of the *Roman People*; as likewise in the third division hath been shewn the habit or gown by which the *Senators* were distinguished from the *Roman Gentlemen*. Here therefore it shall be sufficient for us to understand, that every solemn meet-

ing, or consistory of these *Senators* was called *Senatus*. The fore-Man of them (which could be no other than such, as had been either *Consul* or *Censor*) was called *Princeps Senatus*, and his opinion was always first asked. Now among those that had born those foresaid offices, it was in the *Censors* power to make whom he would fore-Men. The decree of this consistory was called *Senatus Consultum*. And many times it is written with these two letters only, S. C. In like manner their preface to these decrees was commonly these two capital letters, B. F. That is *Bonum factum*. *Sueton. Jul. Caf. c. 80.* and it had the same use as, *In nomine Dei* with us. The place where this consistory was had, they called *Senaculum*. None was ordinarily admitted into the place of a *Senator*, before the five and twentieth year of his age: and of those that were admitted, some were allowed to ride to the Senate-house in a Curule-chair, namely when they had born such office, which gave them right to that Chair; others which had not born such office, went on foot: whence these latter were called *Senatores peditarii*. They determined their acts which they called *Senatus consulta*, sometimes by departing down their benches, and dividing themselves into sides. Those which did approve that which was proposed, sided with the party who did *Referre ad Senatum*, that is, propose the matter unto the Senate; the others departed unto the contrary side; or if they came not down at all, but sate still on the benches, then did they signify by holding up, or beckoning with their hands, what side they would take. Now if the major part were easy to be discerned, then they rested there, terming that Act to be decreed *y per discessionem*: and hence these and the like phrases have taken their beginning, *In illius sententiam iturus sum*, and *Manibus pedibusque discedere in alicujus sententiam*, that is, to be fully perswaded of ones opinion. Now if both companies were almost equal, so that the major part could not easily be discerned, then did they proceed to give their voices,

*u Mart. Phile-
ticus in Cic. l.
1. ep. fam. 1.*

*x Mart. Phile-
ticus ibid. l.
A Gel. noct.
Attic. l. 3. c. 18.*

*y Hubert. in
Cic. l. 1. ep.
fam. 29.*

ces, and that which was thus determined was said to be decreed, *per singulorum sententias exquisitas*, that is, by voices. Here we may observe that those, who were favourably heard in Senate, *His senatus dare dicebatur*; and likewise they were said, *Stare in Senatu*: as on the contrary they were said *jacere*, whom the Senate neglected or rather condemned. ^a *Cum mihi stanti jacens minaretur*, saith ^b Tully. If any Senator were absent without a lawful excuse, then was he fined; and for the payment thereof, he did put in a pledg, which if he did not ransom, then did the common Treasurer *Cedere vel concidere pignora*, that is, strain or seize upon the pledges, making common sale thereof, in which sense those two phrases are used, namely, *capere pignora*, & *auferre pignora*, that is, to strain or seize upon a Mans Goods.

^a Ascensius in
Cic. l. 1. epist.
fam. 4.
^a Cic. orat. de
arusp. respon.
^b Rosin. ant.
l. 7. c. 7.

C A P. 4.

De Consulibus.

After the expulsion of *Tarquinius Sub.* the last Roman King, all the Citizens in *Rome* assembled, and concluded that the Government of the City, which before was in the hand of one alone Governour, called their King, should now be divided between two: ^c who at first (before there was any subordinate office as a *Pretorship*) the Romans called *Prætores*, *quod præirent populo*. Not long after they were called *Judices*, à *judicando*. In process of time they were known by no other name than *Consules*, à *Consulendo populo*. ^d No Citizen was ordinarily created *Consul* before the forty third year of his age. Neither might any be chosen without special dispensation, either in their absence out of *Rome*, ^e or in time of their triumph; which was the reason that *Julius Cæsar* was glad to forgo his triumph at that time when he was *Consul* with *Bibulus*. The signs or tokens of this *Consular* dignity were the twelve *Lictors* carrying their bundles of rods and axes ^f the first month before one

^c Rosin. ant.
Rom. l. 7. c. 9.

^d Cic. orat.
Phil. 5.

^e Suet. Jul.
Cæs. c. 18.

^f Alex. Gen-
dier. l. 3. c. 3.

Consul,

f Cœl. Rohl.
l. 12. c. 7.

g Feneft. de
Mag. Rom.

b A. Gel. l. 3.
c. 18.

i Stadius in
Flor. l. 1. c. 5.

Consul, and the second before the other, as formerly they had done before the Kings. f Now he that had the rods carried before him in the first month, either he had more Children than the other, for the *lex Julia* gave precedence to him who had most Children, or he was elder than the other, or in time of the election he was pronounced before the other, for which respects he was called *Consul major*, and *Consul prior*. g The reason why each Consul had not twelve *Lictors* always, was because the tyranny of the Consul might then seem to be doubled, and to exceed the tyranny of the Kings. Another token was a certain Chair of Estate called *Sella eburnea*, that is, an Ivory Chair, so called from the matter whereof it was made, and b because this Chair was commonly carried about in a certain Coach or Chariot, wherein the Consul did ride, hence from *Currus* which signifieth a Chariot, it is also called *Sella Curulis*; where i note that the word *Curulis* is sometimes used substantively, and then it signifyeth some chief Magistracy or Office among the Romans. The gown by which they were distinguished from other Magistrates or private Men, was a certain purple gown which from the great embroidered works was called *Trabea*, and he that did wear it, was thence called *Trabeatus*, according to that, *Trabeati cura Quirini*. It will be worth the observation to note, that the Romans did date their Deeds and Charters in old time, by naming the year wherein their City was first founded; as to say, *Ab urbe condita*, the twentieth, thirtieth, or fortieth year, &c. But in process of time their manner of dating, was by subscribing the name of their present Consuls; as to say, such a thing was determined, *L. Valerio, M. Horatio Consulibus*, such and such being Consuls: whence *Suetonius* speaking of *Julius Caesar*, saith, he was appointed to be *Flamen Dialis, sequentibus Consulibus*, that is, the next year following. Yea, this was so common a date, that to know the age of their Wines, they signed their vessels with the names of their Consuls, adding withall, that

that they might know the goodness of their wine, the name of the country whence it came, according to that of *Juven. Sat. 5.*

——— *Cujus patriam, titulumque senectus*

Delevit multa veteris fuligine teste. Turn. adv. l. 1. c. 1.

Those alone who had born the office of a Consul, not every one that was capable thereof, were said to be *Viri Consulares*.

k At the first those who were created Consuls remained in their office the space of a whole year, being *designati ad consulatum* upon the twenty fourth of *Octob.*

l At *consulatum non inierant ante Calendas Jan.* that is, the first of *January*. The reason of this chasine, or *interim*

between their designation unto their office, and their entry into it, was (as we may probably conjecture) that the Competitors might have some time to inquire *de Ambiguo*, that is, whether there was no indirect and unlawful means used in their canvassing.

In process of time, either by voluntary resignation, or deposition, or death, many Consuls have been chosen in the same year, and they were called *m Non ordinarii, & suffecti Consules*. At such times all their deeds were dated by the names of the two first Consuls which began the year: whence those two first, and likewise all those that continued in their office the whole year, were called *n Consules Honorarii*, and *Consules Ordinarii*.

k Tristinus in orat. Cic. pro Cælio.

l P. Ramus in orat. Cat. l.

m F. Sylv. in Cic. orat. pro Mur.

n Rosin. ant. Rom. l. 7. c. 9.

CAP. 5.

De Censoribus.

THe Consuls finding themselves incumbred with so many businessess of different nature, did by consent of the Senate choose two peculiar Officers, called *o Censores* à *censendo*, because they celled and valued every Mans Estate, registering their names, and placing them in a fit Century. For it did concern the Romans to know the number, and likewise the wealth of the people, to the end they might be informed of their own strength, and

o Fenest. de Mag. Rom. c. 17.

and so shape their course accordingly, either in undertaking wars, transplanting Colonies, or in making provision of victuals in time of peace. A second and main part of their office was in reforming manners, to which end they had power to enquire into every Mans life. This part of their authority was noted out unto us by this phrase, being called *Virgula Censoria*. If any one had plaid the ill husband, and neglected his Farm, or left his Vine untrimmed, the Censors took notice thereof. They did *Senatu & Tribu movere*, i. e. they did depose Senators and pull down Men from a more honourable Tribe, to a less honourable. *Diminutio maxima* was the loss of ones Tribe, City and Freedom. These Censors were reputed of the best rank of Magistrates in Rome; they remained in their office an whole five years space ordinarily: I say ordinarily, because *r* through the abuse of their place, the office had been made sometimes annual. *s* That five years space the Romans did call *Lustrum*, because they did once in every five years revolution *Lustrare exercitum Romanum*, by sacrifice purge the Roman Army. Hence we say *duo lustra*, ten years, *tria lustra*, 15 years, &c. The performance of this *Lustration* belonged also unto the Censors: for after the Censors had performed the one part of their office, in registering the just valuation of every Citizens estate, *t* they did lead a Sow, a Ram, and a Bull three times about the Army, and in the end sacrificed them to *Mars*: and thus to purge an Army, is, *condere lustrum*; though sometimes *condere lustrum* doth signify, to muster an Army. These Sacrifices, as likewise all others of the like nature, that is, wherein there was a Sow, a Ram, and a Bull sacrificed, were termed sometimes *u Suo-vetauralia*, sometimes *Solitaauralia*, sometimes *x Taurilia*. Moreover it did belong unto these Censors to farm out the Tributes, Imposts, Tollage, &c. *y* At the five years end, the acts of both their Censors were registred upon Books of record, which records were laid up in a certain religious house dedicated to

r Feneft. de
Rom. Mag.
c. 7.
s Pomp. Lat.
de Rom.
Magist. c. de
Censo.

t Pancirol. l.
rerum deper.
c. de cibi ca-
piendi modo.

u Alex. Gen.
dier. l. 5. c. 27.
x Pomp. Lat.
de mag. Rom.
c. de Censor.
y Pancirol. l.
rerum deper-
dit. c. de cibi
capiendi mo-
do.

to the Nymphs. Whence *z* Cicero speaking of Clodius, *z* Cic. pro. saith, *Qui adem Nympharum incendit, ut memoriam publicam incensis tabulis publicis impressam aboleret.* milone.

C A P. 6.

De Pratoribus.

THE Consuls by reason of their many troubles in War, having no time to administer justice unto the Roman people, did for the better help therein, create two new Officers for the executing of Justice, the one to examine and judg of matters within the City, between Citizen and Citizen; the other to decide Controversies between forreigners. The first they * called *Pratorem urbanum*, and *Pratorem majorem*; the other *Pratorem peregrinum*, & *Pratorem minorem*; we may english them Lord-Chief-Justice. Where we must note, that at the first there was only the *Prætor urbanus*, until the cases and suits in Law became so many, that one was not sufficient to hear them all, *b* yea at last the number of the *Prætors* came to 16, namely, when those two were added for the providing of Corn and Grain; whence they were called *Prætores Cereales*, *c* nay there were at last 18 *Prætors*, there being two others added to judg of controversies touching feoffements of trust, called thence *Prætores fidei commissarii*. *d* *Causarum duo genera sunt, aliæ privata, aliæ publicæ; hæc criminosas, illas civiles appellant.* In those cases which were private, that is, *e* touching equity and uprightness of any act, or the restitution of any mony or goods unlawfully detained from the right owner, it belonged principally unto the *f* two first *Prætors* to judg; *j* but under them unto the *Centum-viri*, who oftentimes *g* are called by Tully, *Recuperatores*, and *Judices hæstæ*; the Court, *Hæsta centum-viralis*, because one of the marks and special ensigns, was a spear erected up in the place the Court was kept. Those cases which were publick or criminal, as Treason, Murther, buying of voices in the

* Pighius
æquip.comp.

b Alex. Gen.
dier. l.2. c.15.

c Feneft. de
mag. Rom.
c.19.

d F. Sylv. in
orat. pro Mur.
e I. Saxon. in
Cic. orat. pro
S. Rosc.

f Rosin. ang.
l.7. c.11.

g Saxonius ib.

b F. Sylv. in
orat. pro Mur.

i Rosin. ant.
l. 9. c. 18.

k Rosin. ant.
l. 7. c. 11.

l Rosin. ant.
l. 6. c. 18.

m Sig. de Jusl.
l. 1. c. 7.

canvassing of Offices, &c. were called also *causae capitales* and *capitis dimicatio*, that is, *b* such cases wherein if the party accused had been found guilty, he was *capite damnatus*: by which phrase we must not understand always *Ultimum supplicium*, sed aliquando *exilium*, quo scilicet *caput*, that is, *Civis eximitur à civitate*. *i* These cases at the first were heard by the Kings and Consuls; afterward by certain appointed thereunto by the people, being called from their inquisition *questores paricidii*. In continuance of time, the examination and hearing of these publick cases was turned over unto certain Magistrates, who because they were to continue their Office a full and entire year (whereas the others had their authority no longer than they sat in Judgment) were thence for distinction-sake called *Prætores Quæstores*, and the cases were termed *Quæstiones perpetuæ*: *k* because in these cases there was one set form of giving judgment perpetually to remain; whereas in those private or civil causes the *Prætor* did commonly every year change the form of giving judgment by hanging up new Edicts. *l* Here we must note, that these *Quæstores paricidarum*, otherwise called *Prætores Quæstores*, had not the examination of all publick cases, but sometimes upon extraordinary occasions, either the Consuls, the Senate, or the people themselves, would give judgment. Now as those former *Prætors* had a spear erected up, whereby their Court for private causes was known; so had these *Quæstores* a sword hanged out in token of their Court. *m* *Prætorum insignia duo fuere, hasta & gladius, illa ad jurisdictionem, hic ad questionem significandum*. The Officers which did attend these *Prætors* were *Scribe*, i. e. certain Notaries much resembling the Clerks of our Assises, their office being to write according as the *Prætors* or chief Justices had bid them, taking their name à *scribendo*. The second sort were called *Accensi ab acciando*, from summoning, because they were to summon Men to their appearance. They much resembled our Bayliffs Errant. The third sort were *Lictores*;

Etors; of which before. *n* The authority of the Urban *Prætor* was so increased in time, yea his honour was such, that whatsoever he commanded, it had the name of *Jus honorarium*. *o* Others are of opinion, that only the *Prætors* edict was that *Jus honorarium*, *p* the *Prætor Urbanus*, being wont at the entrance into his Office, to collect a set form of administration of Justice out of the former Laws, and several Edicts of former *Prætors*, according unto which he would administer Justice all the year following: and lest the people might be ignorant of the Contents thereof, he caused it to be hanged up to the publick view. This form of Justice was termed *Edictum ab edicendo*, i. e. *q* *imperando*; because thereby he did command, or forbid something to be done. Whence *Pellitarius* in the place now quoted, doth translate *Consulum edicta*, Mandatory letters, that it might be distinguished from other Magistrates Edicts. It was commonly called *Prætores edictum*. And as *Pighius* observeth in the place above-quoted, it was called *Edictum perpetuum*, not absolutely, because the vertue thereof was perpetual, (for that expired together with the *Prætors* office, and therefore *r* *Tully* calleth it *Legem annuam*) but in respect of other Edicts made in the middle of the year upon extraordinary and unexpected occasions, which latter sort of Edicts *s* *Tully* calleth it *Peculiaris & nova edicta*. Afterward, *t* *Salvius Julianus* collected an Edict out of all the old Edicts of the former *Prætors*, wherein almost all the whole Civil Law was contained, and this was called properly *Edictum perpetuum*, because that all the *Prætors* ever after did administer Justice according to that Edict, by the appointment of *Hadrianus* being then Emperor. The Edict being given out, the administration of Justice consisted in the use of one of those three words, *Do*, *Dico*, & *Addico*, i. e. *u* *Dat actionem*, *Dicit jus*, *Addicit tam res quam homines*; that is, he is said *Dare*, when he granteth out an action or writ against a Man; *Dicere*, when he passeth judgment on him; and *Addicere*, when he in

n Fenesi. de Rom. mag. cap. 19.

o P. Pellat. in Cic. orat. pro A. Cœcinnæ. *p* Pigh. Aeq. pet. com.

q Pellit. in Cic. orat. pro A. Cœcinnæ.

r Cic. in Ver.

s Cic. in Ver. 5.

t Sig. de Jud. l. 1. c. 6.

u I. Carmerar. in Cic. orat. pro Flacco.

the Court doth see and allow the delivery of the thing or the person on which judgment is passed. The Form of Addiction was thus: After judgment had been pronounced in the Court, the party which prevailed, laid his hand on the thing or the person, against which sentence was pronounced, using this form of words, *Hunc ego hominem, sive hanc rem, ex jure Quiritium meam esse dico*. Then immediatly did the L. Chief Justice *Addicere*, that is, approve the challenge, and grant a present possession. *Am. in Fast. l. 1.* For explanation whereof we must know, that this word *Addico*, is sometimes *verbum Augurale*, sometime *Forense*, sometimes a term of Art belonging unto the discipline of the *Augures*, and so the Birds are said *Addicere*, when they shew some good and lucky token, that the matter consulted about is approved by the Gods: the opposite hereunto is *Abdicere*. Sometimes this Verb *Addico* is a term of Law, signifying as *x* much as to deliver up into ones hands, or into ones possession: whence we do not only call those goods that are delivered by the *Prætor* unto the right owner *bona addicta*; but those debtors also which are delivered up by the *Prætor* unto their creditors to work out their debt, are termed *servi additi*. Yea moreover, because in all port-sales it was necessary that the *Prætor* should *Addicere bona*, deliver up the goods sold, hence doth this word often signify to sell, as *Addicere sanguinem alicujus*, to take mony to kill a Man, to sell a Mans life. Touching the reason of their name, they were called *Prætores à præeundo, quoniam jure præibant*. And *y* those alone were properly termed *viri prætorii* which had born this Office, not they which were capable thereof: In the same sense we say *Viri Censorii*, and *Viri Edilitii*, &c.

x M. Toxita
in orat. pro
Pub. Quint.

y Fr. Matu-
rantius in
Philip. 1.

C A P. 7.

De Imperatoribus, Caesaribus, sive Augustis.

WHEN C. Julius Caesar had overcome Pompey his Sons in Spain, at his return to Rome, the Senate welcomed him with new invented Titles of singular honour, stiling him *Pater Patriæ*, *Consul in decennium*, *Dictator in perpetuum*, *Sacrosanctus*, and *Imperator*; all which titles were afterward conferred upon Octavius Caesar; and all the Emperors succeeding him, desired to be called *Imperatores* & *Cæsares* from him. Where we must understand, that this name *Imperator* was not altogether unknown before; for by that name the Roman Souldiers were wont (even at that time) to salute their Lord General after some special conquest. z These Roman Em-^{z Ser. Æn. l. 6.}perors were afterward called also *Augusti* from Octavius Caesar, whom when the Senate studied to honour with some noble Title, some were of the mind that he should be called *Romulus*, because he was in a manner a second founder of the City: but it was at length decreed by the advice of *Manutius Plancus*, that he should be stiled by the name of *Augustus*, which we may English *Soveraign*: And they counted this name of more reverence and majesty than the former name of *Romulus*, because all consecrated and hallowed places were called *Loca Augusta*. The Authority of these Emperors was very great, even as great as of the Kings in former times.

C A P. 8.

De Principibus juventutis, Caesaribus, & nobilissimis Caesaribus.

A Custome * was received among the Roman Em-^{* Rosin. ant. l. 7. c. 13.}perors in their life-time, to nominate him vvhom they vvould have to succeed them in their Empire; and him they called *Princeps juventutis*, *Cæsar*, & *Nobilissimus Cæsar*.

Cæsar. The like custom was practised by *Charles* the fifth Emperor of *Germany*, and so hath been continued by his Successors; namely, that one should be chosen whom they called *Rex Romanorum*, who should be so far invested in the Title to the Empire by the means of the present Emperor, that upon the death, resignation, or deposition of the then being Emperor, he immediately should succeed.

C A P. 9.

De Præfetto Urbis.

Romulus for the better Government of the City appointed a certain Officer called *Urbis præfectus*, to have the hearing of all matters or causes between the Master and the Servant, between Orphans and their Overseers, between the Buyer and the Seller, &c. Afterward in the time of the *Roman* Emperors, this *Urbis Præfectus* did assume unto himself such authority, that he would examine and have the hearing of all Causes, of what nature soever, if they were *Intra centesimum lapidem*, within an hundred miles of *Rome*: (for *b Lapis* in old time signified a mile, because at every miles end a great stone in manner of a mark-stone was erected.) In the absence of the King or Consuls, he had all authority which belonged unto them resigned unto him. I am not ignorant, that some do make this latter kind of Prefecture, or Lieutenantship, a different Office from the former, but I should rather think them to be one and the same, only his authority to be more enlarged in the King's absence: and of this opinion do I find *Fenestella*, *Alexand. Neopol.* and *c Sigonius*.

b Despauterius
in sua syntax.

c Sig. de jur.
Rom. l. i. c. 20.

C A P. 10.

De Decemviris, & legibus scribendis.

FOR the better administration of Justice, the *d* Romans appointed three Men, namely, *e* *Sp. Posthumius*, *Ser. Sulpitius*, *A. Manlius*, to go to *Athens*, and other Grecian Cities there to peruse the Grecian Laws; to the intent that at their return, both a supply might be made of those Laws that were wanting in *Rome*, and the other that were faulty might thereby be rectified and amended. At the return of those three Men, the Consuls were deposed, and both their Authority and Ensigns given unto *f* ten Men newly elected for the Government of the State, and were thence called *Decemviri*. The first elected into this *Decemvirate*, were *Ap. Claudius*, *T. Gentilius*, *P. Sextus*, *Sp. Veturius*, *C. Julius*, *A. Manlius*, *Ser. Sulpitius*, *P. Crassius*, *T. Romulus*, *Sp. Posthumius*: all of them such as had born the Office of a Consul. The Laws which they brought from *Athens* were written at first in ten Tables of Brass: afterwards two other Tables were added, at which times those Laws began to be known and distinguished from others by the name of *Leges 12. Tabularum*. And according to those Laws Justice ever after was administered unto the *Roman* people, at first by these ten Men appointed thereunto, whose authority was as large even as the Kings and Consuls in old time, only it was annual. One of them only had the Ensigns of honour carried before him, one alone had the authority of convocating the Senate, confirming those Decrees, and the discharge of all State-businesses; *g* the other did little differ from private Men in their habit, only when the first had ruled a set time, the others succeeded by turns. This kind of Government did not continue long in *Rome*, for in the third year all their power was abrogated, because of their Tyranny and Oppression used by them towards the *Roman* people.

C A P.

d Eneft. de
Mag. Rom.
c. 14.
e Rosin. ant.
l. 7. c. 9.

f Lip. Reg. Leg.

g Rosin. ant.
Rom. l. 7. c. 19.

C A P. 11.

De Interregia potestate.

f Dion. Halic.
l. 2.

g Rosin. ant.
l. 6. c. 16.

h Alex. Gen.
lib. 1. c. 6.

After the death of *Romulus*, f the Senators divided themselves into several Companies, called *Decuria*, committing the Government of the Kingdom to that *Decury*, that is, to those ten Men, upon whom the lot fell, calling them the *Interreges*. Where we must know that these ten did not rule all together, but each Man ruled for the space of five days, whence g *Rosinus* calleth his Magistracy, *Magistratum Quinqueduanum*. After that five days Government had passed through the first, then did they go to lots to have a second *Decury* chosen, and so a third, &c. This Office of an *Interrex* remained even in the Consuls time, so that if by some extraordinary occasion the Consuls could not be created, h then they chose one, to whom alone they committed the whole Government of the Kingdom, and him they called *Interregem*.

C A P. 12.

De Dictatore.

i Pighius in
Tyran.

Whensoever the Romans found themselves encumbered with dangerous Wars, or any other eminent dangers, they presently chose a *Dictator*, to whom alone was committed the Authority and Rule of the whole Kingdom, differing from a King only in respect of his Name, and the continuance of his Office. Touching his name he was so called, *quoniam dictis ejus parebat populus*. His Office continued but six months, and at the expiration thereof, if need required, he was chosen again for another six months. He was also called i *Populi Magister*, inasmuch as none could make their appeal from him unto the people. As soon as himself was established in his Office, he chose a subordinate Officer,

ficer whom he called *k Equitum Magister*: his authority *k Stadius* in much resembled his, whom they called *Urbis Præfectum*: Flor. l. i. c. 11. for as the *Præfectus Urbis* in the absence of the King, so this *Magister equitum* in absence of the *Dictator* had full and uncontrollable authority of doing what he would.

C A P. 13.

De *Tribunis militum*.

THESE *l* military *Tribunes* were of two sorts. The one *l Rosin. 2.* had all power and authority, which belonged unto *l. 7. c. 24.* the *Consuls*: and thence were called *Tribuni militum consulari potestate*. The occasion of them was this: The protectors of the Commons called *Tribuni Plebis*, did earnestly labour that the Commonalty might be made as capable of the consular Dignity as the Nobility: This was followed so hot, that in the end, though the Nobility would not grant them way unto that dignity under the name of *Consuls*; yet in effect they would grant it them. Namely the *Consuls* should be deposed, and in their stead other Magistrates should be chosen; part out of the Nobility, part out of the Commonalty, who though they were not called *Consuls*, but *Tribuni*, yet were they of *Consular* authority: by which they were distinguished from the other sort of Military *Tribunes*, who had power and authority only in matters Military, and were known by the name of *Tribuni militum* without any addition. *n Some- n Alex. Gen.* times there was one of these three words prefixed, *Rutu- dier. l. 6. c. 18.* *li* or *Rufuli Suffecti* and *comitiati*; not thereby to intimate unto us any distinction of office or place, but to signify their manner of election. For if they were chosen by the *Consuls*, then were they called *Tribuni Rutuli*, or *Rufuli*, because they had their authority confirmed unto them by vertue of an Act or Law preferred by *Rutilius Rufus*, when he was *Consul*. If they were chosen by the Souldiers themselves in their Camp, then were they called *Tribuni suffecti*, that is, *Tribunes* substituted or put

o Rosin. ant.
L. 7. c. 20.

in the place of another. Whence we may conjecture, that the Souldiers were not permitted to make any election, but in time of need, when their former *Tribunes* were taken from them by some violent or unnatural Death. The last sort called *Comitiati*, were so called because they were chosen by the Roman Assemblies, called in Latine *Comitia*. They were termed *Tribuni*, because at the first institution of them (whether we understand the Consular *Tribunes*, or this latter sort) there were but three of each. In process of time notwithstanding I find the number not only of those *Consular Tribunes*, o but of those other also to have been encreased to six, accordingly as the thousands in a legion were multiplied. These latter sort of *Tribunes*, in respect of their Military Discipline, which was to see the Souldiers being faulty to be punished, we may English *Knights Martial*: In respect that their authority was over Foot-men only, we may English them *Serjeants Major*: only this difference there was, to every thousand of Foot-men in any Legion, there was as many Military *Tribunes* under their chief Commander called *Imperator*. But in our English Armies there is but one *Serjeant Major*, who alone under the Lord General hath Command over all the Foot-men, be there never so many thousands.

CAP. 14.

De Triumviris Reipub. constituenda.

p Feneft. de
mag. Rom.
c. 21.

THIS tyranny of the *Triumviratus* began by a conspiracy between *Augustus Caesar*, *Antonius*, and *Lepidus*. For these three under the pretence of revenging *Julius Caesar* his death, obtained chief power and authority for the space of five years throughout *Rome*, p pretending that they would settle the Common-wealth, which at that time by reason of *Julius Caesar*'s death was much out of order. Those five years being expired, they refused to resign their authority, exercising excessive cruelty

ty towards all the *Remans* of what degree soever. *q* This *q* Suet. octa. Aug. c. 27.
kind of Government remained but ten years, neither
ever were there any other than those three above named.
They had power to enact any new Law, to reverse any
former Act, without the consent of the *Senate*, or *Com-*
mons. They might prescribe and banish any *Roman* at
their pleasure, and as often as we read *de Triumviratu*
simply without any adjunction, or *de Triumviratu Sena-*
tus legendi, we are to understand it of this, though some
upon unsure grounds do dis-joyn them.

C A P. 15.

De Quaestoribus Aerarii.

THIS Office of the *Quaestors* seemeth not unlike to a
publick Treasurer, which collecteth the Subsidies,
Customs, Mony, yearly revenues, and all other Payments
belonging to any State or Corporation. And hence
r quoniam publica pecunie quarendae prapositi erant, they *r* Feneft. de Mag. Rom. c. 3.
took their name *Quaestores*. Sometimes they are called
Quaestores Urbani, to distinguish them from the Provin-
cial *Quaestors*, which bare office in the Roman Provinces:
sometimes they are called *Quaestores aerarii*, to distin-
guish them from those that were called *Quaestores par-*
ricidii, or *Rerum Capitalium*, of which you may see
more in the tract *de Pratoribus*. *f* Lastly, they were cal- *f* Sig. de jure Rom. l. 2. c. 8.
led *Quaestores aerarii*, to distinguish them from the *Tri-*
buni aerarii, i. e. those Martial Treasurers, or Clerks of
the Band which did receive the Souldiers pay from
these City-Treasurers, and so pay it unto the Souldiers.
The office of the City-Treasurers (then being at first
but two) was to receive all the City-Accounts; to
disburse at all occasions of publick Expences; to take
an Oath of him that the Souldiers had saluted by the
name of *Imperator*, that he had truly informed the
Senate both of the number of Enemies slain, as also

of the number of Citizens lost ; otherwise he might barr the Emperor of his Triumph. Moreover whatsoever spoils were taken in War, they were delivered up unto these *City-questors*, and they selling them, laid up the Mony in the great Treasure-house called *Aedes Saturni*.

CAP. 16.

De Tribunis Plebis.

† Rosin. Epit.
rerum Rom.

‡ Rosin. ant.
l. 7. c. 25.

α Alex. Gen.
dier. l. 6. c. 14.
γ Rosin. ant.
l. 7. c. 23.

ζ Pighius in
suo Tyranni-
fug.
α Pomp. Lat.

THE † *Roman* Commonalty finding themselves oppressed by the wealthier sort, departed unto the *Aventine* mount, threatening the *Roman* Nobility, that they would forsake the City, and never again adventure themselves in war for the defence thereof, unless they did find some release and easment, from those excessive payments of use and interest unto their Creditors : yea, besides the remission of their present debts, before they would return unto the City again, they would have certain Magistrates chosen, which should be ‡ *Sacrofanti*, that is, such as might not be hurt or violently used, not so much as in words : and if any had violated that Law whereby they were made *Sacrofanti*, then was he accounted *homo sacer* ; that is, an excommunicate Person, or such an one whose Soul should be vowed unto some God ; infomuch that if any after had killed him, he should not be liable unto judgment : α *quoniam illius anima diis devota amplius humani commercii non sit*. To those γ Magistrates the protection of the Commons was committed, who because they were at first chosen out of the *Military Tribunes*, therefore did they always retain the name of *Tribunes*, being so called, that they might be distinguished from the others, *Tribuni Plebis*, Protectors of the Commons. At the first institution of them they were in number but two, as ζ some have thought : α Others say five, afterwards (as it is yielded by all Writers) they increased unto ten. Their authority at first consisted chiefly in this, that they had power to hinder any proceedings.

ceedings in the *Senate*, which they thought might prove prejudicial unto the Commons, so that they had not authority to enact any new Decrees, as afterward by abusing their authority they did. *b Sed eorum autoritas magis in intercedendo, quam jubendo.* And hence was it that in old time these Protectors of the Commons were not permitted to come into the *Senate*, but *c* they sat with *c* *Pig. in suo Tyrannifug.* out at the door, whither whatsoever was determined within the *Senate* was sent unto them, to be perused by them, and if they did approve it, then did they subscribe a great Roman T, being the first letter of this word *Tribuni* *d.* The houses of these *Tribuni* stood open night and day, as a common refuge or place of succour for all that would come; *e* neither was it lawful for them *e* *Pigh. in suo Tyrannifug.* to be absent out of the Town one whole day throughout the year.

CAP. 17.

De Aedilibus, & Praefecto annonae.

WE may read of three sorts of Roman Magistrates called *Aediles*, the two first had their names *ab aedibus curandis*, having in their charge to repair both Temples and private dwelling-houses which belonged unto the City. The first sort were called *Aediles curules*, *a cella curuli*, from the Chair of State, wherein it was permitted them to ride, and these were chosen *f* out *f* *Philet. in* of the *Senators*. The second sort were called *Aediles Ple-* *l. 2. Cic. epist.* *beii*, and they were added unto the former, at the earnest *fam. 10.* suit of the Commons, they being to be chosen out of them. Where we must note that they were not so added, that both sorts should rule at one and the self-same time, *g* but that the *Curules* should rule the one year, and *g* *Alex. Gen.* the *Plebeii* the other. To these *Aediles* it did belong, be- *dic. l. 4. c. 4.* side the reparation of Temples and private houses, to look unto the weights and measures in common sale: for they had power to examine *Actiones redhibitorias*, that

b Alex. Gen.
ibid.

i Pighius in
suo Tyran.

k Rosin. ant.
l. 7. c. 28.

that is, such Actions, by virtue of which he had sold any corrupt or sophisticated wares, was constrained to take them again. Moreover they had the charge of the publick Conduit or water-conveyances, of provision for solemn Plays, &c. Of the third sort there were also two, who were in a manner Clerks of the Market: *b* for unto them belonged the looking unto the victuals sold in the Market, and Corn: Whence they were called by them *Ediles Cereales*, and *i* by the Greeks ἀγορονόμοι. This office, for ought that can be collected out of those that treat of it, differeth but little from his, whom the Romans called *Annona praefectum*; only this, the *Ediles Cereales* were *Magistratus ordinarii*; the *Praefectus*, *extraordinarius*, namely, *k* such as was chosen only in time of extraordinary dearths: he having for that time larger authority than those ordinary Clerks of the Market. For as it appeareth by *Rosinus* in the place now quoted, this *Praefectus* had power of himself to examine all such cases or questions as should arise touching the dearth: as suppose the hoarding of Corn, fore-stalling the Market, &c.

CAP. 18.

De Triumviris.

l Alex. Gen.
dier. l. 3. c. 16.

m I. Camer.
in orat. Cic.
pro Flacco.

BESIDES that *Triumviratus Rep. constituende*, of which we spake before, there were divers kinds of *Triumviratus*, namely, *Triumviri Capiales*, three high Sheriffs, who had the charge of Prisons, and were to see Malefactors punished. For which purpose eight *Liētors* did attend them. There was also *l* *Triumviri Marenſii*, three Men, we may term them Bankers, who had authority to pay out of the Common Treasury poor Mens debts. Sometimes there were appointed five to this Office, whence they were also called *m* *Quinque viri Menſarii*, both being called *Menſarii* from *Mensa*, a Table whereon they told their mony. Another sort of *Triumviri* there were appointed to press Souldiers, whence they were

were called *Triumviri conquirendi juvenes idoneos ad arma ferenda*. We read also of certain *Triumviri*, which were elected as chief Captains to guide and conduct the people in transplanting Colonies, and thence were they named *Triumviri colonie deducende*; but sometimes for this purpose they erected seven, ten, or twenty, and so named them *Quinque viri*, *Septem viri*, *Decem viri*, and *Viginti viri Colonie deducende*. Three other sorts of *Triumviri* remain, which were officers of small account, as the *Triumviri monetales*, three Masters of the Mint, who thence was called *Triumviri A. A. Æ. F. F.* that is, *Auro*, *Argento*, *Ære*, *Flando*, *Ferundo*, for they had the charge of coining the Mony. 2. *Triumviri valetudinis*, three Pest-men, which were to oversee those that lay infected with any contagious Sickness. Thirdly *Triumviri nocturni*, three Bell-men, which were to walk the Town at night, and to give notice of fire. t Alex. Gen. dier. l. 3. c. 16.

C A P. 19.

De Præfectis Ærarii.

Augustus Cæsar desiring for the better safety of the City to maintain many hands of Souldiers, which should always be in readiness for the defence of the City, desired of the City a yearly Subsidy for the maintenance of those Souldiers: but being denyed it, he built a certain Treasure-house which he called *Ærarium militare*, whereinto he cast his Mony for himself and *Tiberius*; and promised to do so every year. Afterward when he saw the Treasury not to be enriched enough, either by that Mony which himself bestowed, or by the contributions of others, he appointed that the twentieth part of all inheritances and legacies (except it were to the next of the kin, or to the poor) should fall unto this Treasury. For the charge and custody hereof he appointed three of those Souldiers which always attended about him for the safeguard of his person, calling them *Præfectos Ærarii*.

C A P.

CAP. 20.

De Præfecto Pratorio.

o Panair. in
notitiam im-
per. orien.
p Pighius in
Æquipet.
compos.

q Asconius in
Verren.

r Fr. Sylv. in
Catil. 2.

ALL Captains and Governours to whom the Rule of any Army belonged, were in ancient time called *Prators*. This word *Prator* signifying then three chief Officers among the Romans, first a Consul, secondly a L. Chief Justice, thirdly a L. General in war; all of them being called *p Pratores, quasi Prætores, quoniam jure & exercitu præbant*. Answerable to which threefold acceptations, this *Pratorium* hath three several significations: sometimes it signifieth a Princes palace or Manor-house, sometime a great Hall or Palace where Judgment was wont to be given, and lastly, the L. General his Pavilion in the Camp; *q* from which last signification it is, that those Souldiers that gave attendance about that Pavilion for the guard of their Captains person, are sometimes called *Milites Pratoriani*, sometimes *Cohors Pratoria*. *r* And he to whom the oversight of the Souldiers was committed, was thence called *Pratorio-præfectus*.

CAP. 21.

De Advocato fisci.

FOR the right understanding of this office, we must first note a difference between these two words, *Ærarium* and *Fiscus*. *Ærarium* was a common Treasury belonging unto a whole State or Corporation, whence all publick and common expences were to be supplied. *Fiscus* was the Kings or Emperors private coffers: it may be Englished the *King's Exchequer*: The keeper thereof was caled *Advocatus Fisci*. There are many other petty officers within the City, which I have purposely omitted, because there is but seldom mention of them in old Authors; and as often as they are mentioned, their names do explain their office.

CAP.

CAP. 13.

De præcipuis Magistratibus provincialibus.

OVER the Provinces at first ruled certain Magistrates sent from *Rome*, by Commission from the *Roman* Senate, called *Prætores*, whose office was to administer Justice unto the Provincial inhabitants, yea, and if occasion served, to make war also upon their enemy; and this was the reason that the number of the *Prætors* did so increase always, namely, according as the number of Provinces did encrease. The wars and tumults in the Provinces sometimes were so great, that the *Prætor* was not sufficient both to manage war and execute Justice: whereupon the Senate thought fit to send another Magistrate into the Provinces, whom they called a *Consul*, because properly the managing of war belonged unto the *Consul*, so that there were at first two ordinary Provincial Magistrates, a *Consul* to manage war, and a *Prætor* or Lord Chief Justice to sit in Judgment. And if these two by a second grant from the Senate, did continue in their office above the space of a year, then were they called *Proconsules* & *Propætores*. But in process of time this custom was altered; for then none could be *Proconsuls*, but those alone who had been *Consuls* in *Rome*: neither could any be *proprætors*, which had not been *Prætors* at *Rome*. Their manner being that the next year after the expiration of their offices in *Rome*, they should depart into some certain Province, to bear the same offices again, being not called *Consules* or *Prætores* as before, but *Proconsules* and *Propætores*: and for this cause always so soon as the *Consuls* had been created, the Senate did appoint certain Provinces for the *Consuls*, which being appointed, the *Consuls* did either agree between themselves, who should go to the one, who to the other, and that was termed *comparare provincias*; or else they did decide the question by lots, and that was termed *sortiri provin-*

Alex. Gen.
dier. l. 3. c. 3.

t Camer. pro
L. Flacco.

u Rosin. ant.
l. 10. c. 24.

x Pomp. Lat.
de Mag. Rom.

y Sig. de Jur.
prov. l. 2. c. 2.

* Sig. de Jur.
prov. l. 2. c. 3.

b Sig. ibid.

cis : howbeit, sometimes the Senate did interpose their authority, and dispose the same. Under the Emperours the governours of some Provinces were appointed by the Senate and the people, and those were called *Proconsules*, and the Provinces, *t Provincia Consulares*; others were appointed by the Emperors, and they were called *Propratores*, and the Provinces *Prætorie Provincie*. For all this which hath been noted touching the Provincial Magistrates, it is almost *verbatim* translated out of *u Rosinus*. To which we add this, namely, that every Proconsul and Proprætor did usually chuse a Lieutenant, such a one as should be assistant unto him in matters of Government, whom they called *Legatum*, so that this word *x Legatus* signified three several Magistrates among the *Romans* : two whereof may be proved out of *y Sigonius* : first, that it signifieth such a Lieutenant, or Lord Deputy under a Proconsul, or Proprætor in a Province. 2. That it signifieth such a one as is employed in the delivery of a Message or Embassage from one Prince or State to another : we commonly call them Embassadors. Lastly, it signifieth a Lieutenant or chief Captain in war, whose place was next under the L. General. His Office at the first institution, was not so much to rule or command, as to assist the Lord General in counsel; whence *Polybius* commonly joyneth these two together *πρεσβυτὸς καὶ συμβεβηλός*, that is, *Legatos & Consiliarios*, that the latter word might expound the former, *Lisp. de mil. Rom. l. 2. dial. 11*. Moreover, every Proconsul and Proprætor had with them certain Treasurers, called *Quæstores provinciales* : These Provincial Treasurers * were chosen by the *Roman* people commonly, namely, such a number as the number of Provinces did require. After the election, they between themselves did cast lots who should go unto the one, who unto the other Provinces : b sometimes extraordinarily by virtue of special act or decree, this or that spicial Man hath obtained this or that Province without any lottery. By the way we must note,

note, that all Provincial Questors could not be called Proquestors, as all Provincial Consuls and Prætors were called *Proconsules* and *Proprætores* : c For those only were called *Proquestores*, which did succeed those Provincial *Questors*, when they did either die in their Office, or depart out of the Province, no successor being expected from *Rome*, at which time it was lawful for the Proconsul or Proprætor, to choose his Proquestor. Moreover, there were besides these *Legati & Questores*, d other Military Officers, such as are the *Tribuni militum*, *Centuriones*, *Præfecti*, *Ducuriones*, together with other inferior Officers, as their Secretaries, Bayliffs, Cryers, Serjeants, and such like.

c Rosin. ant.

Rom. l. 7.

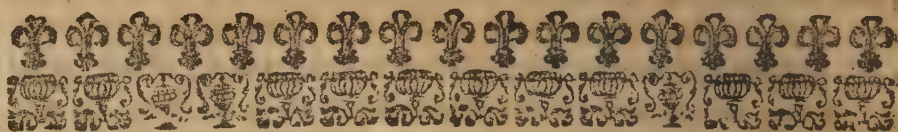
c. 45.

d Sig. de Jur.

Prev. l. 2. c. 2.

A a 2

LIB.



LIB. III. SECT. III.

Of the Roman Punishments.

CAP. I.

*Supplicia, Mulcta, Lex Ateria, Tarpeia, Ego
ei unum ovem mulctam dico, &c.*

Touching the Military Punishments, which belonged to the Military Discipline; it shall be treated of in its proper place. Here only of the City Discipline, and the usual Punishments exercised therein, which we may divide thus. Punishments publicly inflicted on malefactors, are either *Pecuniary mulcts*, or *corporal punishments*: The *Pecuniary mulcts* were of two sorts; either an appointed sum of money was required of the party guilty, and then it was called *Mulcta*; or his whole estate was seized on, and then it was termed a *Confiscation* of his goods. The *Mulct* was twofold, the one termed *Mulcta superma*, the other *Mulcta minima*. Of both these * *Gellius* writeth thus, *Superma mulcta erat duarum ovium, & triginta bovum, pro copia scilicet bovum, & penuria ovium; sed cum ejusmodi mulcta pecoris armentique à magistratibus dicta erat, adigebantur boves ovesque, alias pretii parvi, alias majoris, eaque res faciebat inaequalem mulctæ punitionem*

* *Gell. l. II.*

punitionem : idcirco postea lege Ateria constituti sunt in oves singulas eris deni, in boves eris centeni : Minima vero multa fuit ovis unius. Moreover as he observeth in the same place, whensoever the Magistrate did set a fine or mulct upon the offenders head, he used the word *Ovis* in the Masculine gender, as *Ego ei unum ovem multam dico*, &c.

The Law which Gellius calleth *Ateriam legem*, ^{b Festus} *b Festus in voce peculari.* calleth *legem Tarpeiam*, because *Arerius* enacted it when he was Collegue or fellow-Consul with *Tarpeius*. Likewise we may take notice of the Clemency used in those times. - It was provided by the Law, that seeing there was a greater plenty of Oxen, than of sheep, and to be fined an Ox, was not so much as to be fined a Sheep, therefore the Magistrate pronouncing the fine, ^{c Bozem} *c P. in lib. 18.* *prius quam Ovem nominaret, ut innotesceret Romanis mitiores semper pœnas placuisse.* ^{c.3. It. Alex. ab Alex. l.3. c.5.}

C A P. 2.

Capitis diminutio, maxima, media minima, Aqua & Igni interdici, Proscriptio, Lata fuga, Deportatio, περυσία, ενλιπεύ, Ararii, In ararios relati, Religatio, Lanii cum tintinnabulis.

THe corporal punishments were either such as were *Capital*, depriving a Man of his life: or *Castigatory*, such corrections as served for the humbling and reforming of the offender, or for the destroying of him. *Capital* punishments were sometimes taken in a Civil acception, for the loss of freedom, which the Romans called *capitis diminutionem*, Disfranchising, because in every Freeman thus Disfranchised, one head of the Corporation was as it were cut off: sometimes it is taken for the loss of ones life, and this they called *Ultimum supplicium*. - That Disfranchising, called *capitis diminutio*, was ^d threefold, *Maxima Media & Minima*. ^{d Rosin. ant. l.9. c.31.} The least degree was, when the *Censores* pulled a man from an higher Tribe, down to a lower and less honourable,

▲ e Sig. de Jur.
Rom. l. 1. c. 17.

f A. Gel. noct.
Attic. l. 4. c. 7.

g Camerar. in
orat. Cic. pro
Mur.
h Coel. Rhod.
l. 15. c. 17.

i Rosin. ant.
l. 9. c. 21.

honourable, or when by any censure they disabled a Man from suffraging, or giving his voice in the publick Assemblies: such as were thus in the last manner punished, were termed *Ærarii*, and *In ærarios relati*, e quia *omnia alia jura civium Romanorum præterquam tributum & Æris conferendi amiserunt*. This kind of punishment as it may seem, was many times exercised for irreverent gesture or Speeches used by such as were questioned by the Censors. Three several examples are noted by f Gellius; the last is this, *P. Scipio Nasica* and *M. Pompius* being Censors, taking a view of the *Roman* Knights, observed one of them to have a lean starvling horse, himself being fat and in good plight; whereupon they demanded the reason why his horse was so lean, himself being so fat: his answer was, *Quoniam ego, inquit, me curo; equum Statius meus servus*. *Diminutio media*, was an exilement out of the City, without the loss of ones freedom: g It was commonly set down in this form of words, *Tibia aqua & igni interdico*. And it seemeth by h Cæl. Rhodiginus, to be all one with that kind of banishment which the *Romans* called *Proscriptio*, though it cannot be denied but that *Proscriptus* sometimes signifieth only such a one whose goods are set at sale to satisfie his creditors, because he will not appear in the Court, the form thereof was thus; The Creditors having obtained leave of the Lord Chief Justice to proceed in this manner, they committed the ordering of the sale to one principal creditor, and he was called simply *Magister*, and he in the name of all the rest solemnly proclaimed in the chief places of the City in form as followeth, i *Ille debitor noster in ejusmodi causa est, ut bona ejus divendi debeant; nos creditores patrimonium ejus distrahimus; quicunque emere volet, adsto*. But for the reconciling of both opinions, we may term the first to be *Proscriptionem hominum*, the other *Proscriptionem bonorum*, which distinction being not observed, breedeth a great confusion in the Authors that treat of this punishment: and because both were performed by solem and publick

publick Proclamations, hence the name *Proscriptio* agreed as well to the goods confiscated, as to the persons banish'd; according to that, *Quoniam eorum nomina in publico scribebantur, hinc proscribi dicebantur*. Hence the Grecians used not only the word *περὶ γράφειν*, but also *ἐπιτίθεσθαι*, to signifie the act of *proscription*, because they wrote in a publick pillar the faults and offences of such as were thus banished. But to proceed without further digression, *Diminutio maxima* was the loss both of the City, and the freedom; and this I take to be the same which in other terms was called *Lata fuga*, or *Deportatio*; namely, a perpetual exilement: All standing in opposition to that other kind of banishment, called *Regulatio*, which was the exilement * only for a season, happily for five years, See *Rhod. lib. 10. cap. 5*. Though I deny not but that *lata fuga* was so called, not only in respect of the duration of time, it being a perpetual banishment, but also in regard of the places so generally prohibited; *m* for he that was thus banished, was tyed and limited to one particular Country, all other places in general being forbidden him. Those punishments that deprived of life in ordinary use, and of which there is most frequent mention in *Roman* Authors, are these which follow: *Furca, Crux, Carcer, Culeus, Equuleus, de rupe Tarpeia dejectio, Scala, Gemonie, Tunica, Damnatio, in gladium, in ludum, ad bestias*. In general we are to note, that the execution was without the Gates of the City, to prevent the noisomness which such abundance of blood might occasion, *n* for which reason the Executioners dwelt without the City. Likewise those that were adjudged to death, when they went to the place of Execution, a certain little Bell was tyed about them, that by the sound thereof, the people might beware of touching the condemned person, because the very touch of him was counted a kind of pollution: this *o Turnebus* observed out of *Zonaras*, and from thence the Executioners were called *p Lanii cum tintinnabulis*. And for this reason.

k Fr. Matur. in Philio. orat. 5.
l Suid. in voce *ἐπιτίθεσθαι*.

* Adde quod edictum quamvis immitte minaxq; Attamen in poenæ nomine lene fuit; Quippe relegatus, non exul dicor in illo. Ovid. de trist. lib. 2. Eleg. 1.
m Tholosan. syntag. Jur. universal. 31.

n Plaut. Cas. 2. 6.

o Turneb. adv. l. 11. c. 21.
p Plaut. Pseud. l. 3.

^q Rosin. ant.
l. 10. c. 29.

^r Tertul. Apol.
c. 33.

reason ^q it was, that a little bell and scourge was hang-
ed up in the hindmost part of the Chariot, wherein the
Lord General did ride in his triumph, a publick Officer
which rid with him in the same Chariot, now and then
plucking him behind, and bidding him look back, using
this form of words, ^r *Respici post te, hominem memento te;*
that is, *Sir look behind you, remember your self to be but*
a Man. For the sight of the scourge and bell served
to put him in mind, that notwithstanding his present
Triumph and Acclamations, his after-miseries might be
such, that he might be punished not only with whips,
but even with death it self.

C A P. 3.

Furca, Furcifer, Supplicium more Majorum, σῆπιγμορ.

^{*} Isidor. orig.
l. 10.

^b Plutarch. in
Coriol.

^c Epit. Livii.
dec. 3. l. 6.

A Ncient Authors which do write of the Roman *Fur-*
ca, do rather mention it, than explain it: but if
we diligently observe what they speak of it, we shall
find the use thereof to have been threefold. The first
ignominious, which ^{*} was when the master forced the
servant for small offences *furcam circa urbem ferre*, to car-
ry his *furca* upon his shoulders about the City, confes-
sing his fault, and admonishing others to beware of the
like offence, and ^b hence such a servant was afterward cal-
led *furcifer*; and hence I think was the use of those *stimuli*
or goads, whereof I shall speak more in the Chapter fol-
lowing; namely, that when the party thus to be punish-
ed dragged back, and shewed himself unwilling, then
did the Executioner prick him forward with these kind
of goads. The second sort was penal, when the party
having the *furca* on his neck, was led up and down the
Cirque, or some public place, and on the way to be whipt,
but not unto death: ^c thus *C. Matienus damnatus sub*
furca diu virgis casus erat, & sestertio nummo venit. He
was

was afterwards fold, and therefore died not under the punishment. The third sort was penal too, but in a higher degree; namely, when the malefactor having his head fastened to the *furca*, was whipt under it to death: and this was by a peculiar name called *d Supplicium more majorem*. This yet differed from that beheading with an Ax, which was in use among the Romans, and called by the Grecians *πελεκισμός* from *πελεκύς*, signifying an ax or hatchet; it differed I say from this, because howsoever there was in this *σχυρῶς πρόσδεσις* a tying the party to a stake or, post, and also *μαστίγωσις*, a whipping, in both which it agreed with the former punishment; yet herein they differed, because in the former they were whipt to death, in the latter they were after their whipping beheaded with an ax, as appeareth by the execution of *Antigonius* the King of the Jews. But to proceed in the description of the *furca*, the form thereof I take to be like the beam of a Wain, unto which the yokes are fastened; it resembleth a fork, and the *furca* is called *ξύλον διπλῆν, δικρῆν, δίδυμον*, i.e. *lignum duplex, bicornutum geminum*, in English a forked piece of timber, there is no such piece throughout the whole Wain, as the form of Wains is in these times, but only the beam thereof. *f Plutarch* treating of the *furca*, saith that it is *ξύλον ἀμάξνης ὃ τὸ ξύμὸν ὑπερείδασι*, that is a piece of timber about the waggon or wain, wherewith they upheld the beam; and he addeth, that what the Grecians call *ἀποσάτην* and *σῆρισμα*, the Romans call *furca*: now *Hesychius* describeth *σῆρισμα* to be *τὸ δικρῆν ὅπερ ἀποζιθέασι τὰς ἑλμάξνας ζυγῶν*, that is, the forked piece of timber, which they put under the yoke of the Wain; correct *Plutarch* by *Hesychius*; and for *τὸ ξύμὸν*, read *τὸ ζυγόν*, and you have in both the description of the beam in the Wain. Some think that *Plutarch* compareth the *furca* to certain forked pieces of timber, wherewith the Wain was upheld whilst it was unloaded; but how this can stand with *Hesychius* his description of *σῆρισμα*, I am yet to learn; notwithstanding

d Sueton. in Ner. 49.

e Dion. l. 49.

f Plut. in Coriol.

g Sozom. Ec-
cles. hist. l. i.
c. 8.

ing if we admit this interpretation, that which I would hence infer is rather confirmed, than any way weakned; namely, that the form of the old Roman *furca* was forced; neither do there appear any testimonies so evident to me, as to perswade that among the ancient Romans any other was in use. True it is, that in after-ages the form thereof was the very same with our *Gallowses*, which are now in use; and this haply began, when the use of crucifying was interdicted, which interdiction we read first to have taken place in g *Constantines* time.

CAP. 4.

Cruix, Servile supplicium, Titulus.

b Vid. Lips. de
cruc. l. i. c. 11.
* Suet. Gal. 9.

i Plut. de fera-
numinis vind.
k Vid. Lips.
de cruce l. 2.
c. 5.

l Artemid.
l. 2. c. 51.

CRucifixion hath been a punishment in ancient use among the Romans; it was abrogated by *Constantine*. It was a death that commonly servants were sentenced unto, seldom times freemen, whence it is many times noted out by the name of *servile supplicium* by *Tacitus*: yet b sometimes freemen, though of the baser sort, and for notorious offences, were adjudged to this kind of death: nay a clear example hereof we have in that * *Guardian* which *Galba* crucified for poysoning his Ward, for the *Guardian* calling for the benefit of the Law, and avouching in his plea, *That he was a Roman Citizen*, *Galba*, as if he would allay his punishment with some comfort and honour, commanded the Cross already made to be changed, and another to be reared far higher than the ordinary, and the same laid over with a white colour. Those which were thus to be punished, they bore their Cross upon their shoulders to the place of execution. i *Malefici cum ad supplicium educuntur, quisq; suam effert crucem.* k *Artemidorus* is as plain, εοικε γὰρ ἡ οὐρανός τε θανάτῳ ἢ οὐ μέλλων προσελθῆναι πρότερον αὐτὸν βασάλει, that is, The Cross is like unto death, and he which was to be crucified did first bear it: The party that suffered this kind of death, was first stripped of all his clothes, for he suffered l naked; then

then was he fastned unto the Cross, and that commonly with nails, the Greek word *προσῆλωσις* clearly evinceth as much, we may render it *Clavifixio*. Now that the equity of the proceeding might clearly appear to the people, the cause of his punishment was written in capital Letters; hence *m Dio* speaketh of a servant dragged to the Cross, *μετὰ γραμμάτων τῷ αἰτίῳ τῇ θανάτωσιν δεικνύτων*, that is, with letters declaring the cause of his death: this inscription was called *αἰτία*, *Mat. 27. 37.* It was also called *τίτλος* *Joh. 19. 19.* from the Latine word *titulus* used in the same sense. And sometimes *ἐπιγραφὴ τῇ αἰτίᾳ*, *Mar. 15. 26.* or simply *ἐπιγραφὴ*, *Luk. 23. 38.* *n Tertullian* and *o Suetonius* calleth it *elogium*. The like kind of publishing the cause, either by an Inscription, or by the voice of a common Crier, was not unusual in other capital punishments, as *Attalus* the Martyr was led about the Amphitheatre, *πίνακα αὐτὸν προάγοντι*, ἐν ᾧ ἐγγεγραπτο ῥωμαῖσι, ὅτις ἐστὶν Ἀττάλῳ ὁ χριστιανός, *i.e.* A table being carried before, in which was written in Latin, *This is Attalus the Christian*. That of *q Suetonius* is not much unlike, *Patrem familias detractum ē spectaculis in arenam canibus objecit, cum hoc titulo, Impie locutus Parmularius*. What is meant in this place by *Pater familias* and *Parmularius*, hath been already declared in the Chapter of *Fencers*. Moreover, such as were to be crucified, they were also whipt before they suffered. That same *horrendum carmen* clearly evinceth as much: the parts whereof are two. First, *r Verbera intra aut extra pomerium*. Secondly, *Arbore infelici suspendito*. This whipping was sometimes *sub furca*; for this, ** Valerius* is plain, ** Cum servum suum verberibus mulctatum sub furca ad supplicium egisset*; sometimes *ad columnam*. *Artemidorus* is clear in this, *προσδεθείς μίονι πολλὰς ἔλαβε πληγὰς*, that is, being tied to the Pillar, he received many stripes. Haply *f Plautus* alludeth to the same:

——— *abducite hunc*

Intro atq; adstringite ad columnam fortiter.

Yea, the ancient *t Fathers* say, that our blessed Saviour

Bb 2

was

m Vid. Lips. de cruce l. 2. c. 11.

n Apol. c. 11. o Suet. in Cal.

p Euseb. eccl. hist. l. 5. c. 1.

q Suet. Dom. c. 10.

r Liv. l. 1.

** Val. Max. l. 1. c. 7.*

f Plaut. Bac.

t Prudentius Hieronym.

Beda. vid. Lips. de cru. l. 2. c. 4.

was thus whipt: Touching the place or manner the Scripture is silent, only that he was whipt it testifieth, and that with scourges, τὸν Ἰησοῦν φραγέμαστας παρέδωκεν ἰνα σαυρωθῇ, *Mat.* 27. 26. This fore-whipping I take to be a matter unquestionable, but that they should be whipt on the way towards the place of execution, I much doubt; much more that they should be goaded on the way with pricks and goads by the executioner. That there was *Stimuleum*, *supplicium*, a kind of punishment with pricks and goads, is evident, and hence cometh that phrase *Stimulo fodere*, and hence that other phrase of *kicking against the Pricks*. Parallel to which is that of *Plant. Truc.* 4. 2. *Stimulos pugnis cadere*. But this kind of punishment I take to have been exercised only by Masters towards evil servants, and that not as preparatory to death, but for their reformation in future times: whence by way of contempt, a servant, thus handled, was termed ** Carnificium cribrum*, because he had his back so bored with those pricking instruments that it looked like a sieve full of holes. Otherwise if we understand it as a punishment imposed by publick authority, we may say, that thereby is denoted a certain punishment exercised towards thieves in time of their examination, that by the pricking and goading of them, the truth might be confessed; * for to that end thieves were thus tortured, and thence were they called *centrones*, from κέντρον *Stimulus*. Lastly we must remember that these three words, *Furca*, *Cruce* and *Patibulum*, are many times used promiscuously, signifying the whole Cross on which malefactors suffered: but in strict propriety of speech, *Furca* signifieth that forked instrument of which we treated in the former Chapter; *Cruce*, that erect part of the Cross standing upright; and *Patibulum*, the thwart piece of timber upon the top of the Cross: yet sometimes also *Patibulum* is taken for the *Roman furca*, whence *Patibulatus* and *Furcifer* are used as words equivalent, and in both senses it may borrow its name from *Pateo* to lie open; because

* *Plant. mil.*
2. 6.

* *Plant. Most.*

* *Cael. Rhod.*
lect. antiq.
l. 10. c. 5.

as the malefactors hands were spread abroad being fastened to the thwart piece of timber upon the top of the Cross: so were they likewise spread abroad under the *Furca*, his two hands being tied to the two forked ends thereof.

C A P. 5.

Carcer, Ergastulum, Tullianum, Robur, Mala mansio, Nervus, Columbar, Numella, Codex.

HOWsoever *Carcer* and *Ergastulum* are used promiscuously by modern Writers, yet if we diligently enquire into each words origination, and how they have been used by more antient Authors, we shall find them thus differenced. *Ergastulum* was a Prison much resembling our house of *Correction*, into which servants only were cast: *Carcer* a more publick Prison; unto which Men of better rank and fashion upon just occasion were committed. Secondly, the power of sentencing any servant to the *Ergastulum*, was proper and peculiar to the Master of the servant, without approbation from publick authority: but the power of committing to the Prison called *Carcer*, was only in the publick Magistrate. Thirdly, *Ergastulum* took away only the liberty and pleasure of life: *Carcer* life it self. The word *Carcer* hath his name à *corcendo*, from restraining Men from their liberty. * It had two principal parts, the one called *Tullianum*, the other *Robur*, besides many other rooms wherein Men were kept close prisoners: those two places were assigned for execution. In that which they called the *Tullianum* (we my English it *Dungeon*) they strangled malefactors. b It had its name from *Servius Tullus* a Roman King, the first inventor and Author thereof. Of this *Salust* writeth, *Est locus in carcere quod Tullianum appellatur, ubi paulatim ascenderis ad levam circiter duodecim pedes humi depressus, eum muniunt undiq; parietes, atq; insuper camera lapideis fornicibus juncta, sed inculta tenebris, odore fœda, atq; terribilis ejus facies est.* In that other place which they called commonly

* Sig. de Jud.
l. 3. c. 17.

b Sig. ibid.

c Plaut. Poen.
5. 3.

d Plaut. Poen.
5. 6.

e Hor. l. 2.

Od. 13.

f Turn. adv.
1. 23. c. 22.

g Plaut. in
cur. c. act. 5.
sc. 5.

h Val. l. 5. c. 4.

i Plaut. Aulul.
2. 5.

k Cic. pro Mi-
lone.

l Turn. adv.
3. c. 18.

commonly *Robur*, sometimes c *Robustus Codex*, sometimes d *Custodia lignea*, sometimes e *Italum robur*, (our English phrase *strong bold* fitly answereth it) they broke malefactors necks by a kind of precipitation or tumbling them headlong f from a certain stock of a Tree fastned there in the earth, unto this Tully alludeth, *Quero frageris ne in carcere cervices illi ipsi Vestio*: But more expressely *Plautus*. g *At ego faciam vos ambos in robusto carcere ut pereatis*, Those that had the chief oversight in such executions, were called *Triumviri capitales*, that is, *High-Sheriffs*. The whole proceeding is set down by *Valerius*, h *Mulierem damnatam Prator Triumviro necandam in carcere tradidit, quam receptam is qui custodie præerat, misericordia motus non protinus strangulavit; aditum etiam filie dedit, sed diligentur excusse, ne quid cibi inferret, existimans futurum, ut inedia consumeretur; cum viro animadvertisset filiam matrem lactis sui præsidio sustentantem, rem ad Triumvirum, Triumvir ad Prætorem, Prator ad consilium judicum pertulit, & remissionem mulieri impetravit*. It is much controverted among Interpreters what that kind of punishment was which they termed *Malam mansionem*, we may English it, *Little ease*. Some understand hereby a certain deep dungeon, made in the form of a pit or well, called therefore in Latine *Puteus*, but this as it seemeth by that of *Plautus*, was a punishment proper and peculiar to thievish Cooks: i *Coqui abstulerunt, comprehendite, vincite, verberate, in puteum condite*. Others understand hereby a close Prison, which because of its straitness and closeness they called *arcam*, a chest: the use of this Prison was for the safe keeping of such who were afterward to be examined of farther matters; though sometimes other offenders were cast into the same. Of these Prisoners Tully speaketh, k *Subito abrepti in questionem, tamen separantur à cæteris, & in arcas conjiciuntur, ne quis cum his colloqui possit*. Another kind of Prison there was, called *Sextritium*, thus it is commonly rended in Latine, but the Greek word is *σεστίριον*, and accordingly l *Turnebus* renders it *Sestertium*, being

being of opinion that it was so called from the quantity of ground it contained, namely two acres and an half. *C. Rhodiginus* thinketh that *Spoliarium* and *Sextritium* were not places unlike; but herein not he alone, but divers others have been deceived; for *Sextritium* is apparently a place of *b* execution, where those were executed *b* Plut. in Galb. whom the Roman Emperours adjudged to death: now whether that *Spoliarium* were a place of punishment, I much doubt. What in Latine we call *Spoliarium*, that the Greeks termed *ἀπὸ δούριον*, both do signifie primarily little Cells or Chambers near adjoyning to the Bath, where such as washed themselves laied up their clothes: In a borrowed sense both are used to signifie Chambers and Cells adjoyning near unto the Amphitheatre or fencing place, wherein the Fencers did put up their clothes in time of fight, and because such as were wounded in fight were carried into those Chambers, where they languishing with much pain, at last notwithstanding expired for the most part, and that not without much torturing of the Chirurgion; hence such a *Spittle-house*, is also called *Spoliarium*. Thus much *Seneca* seemeth to intimate, *c Nunquid aliquem tam cupidum vitæ putas, ut jugulari in spoliario, quam in arena malit?* Whereby it appeareth that *Spoliarium* was not a prison, unto which malefactors where judged, but rather as I said, a kind of *Spittle-house*. Other kind of punishments there were of a near likeness with Imprisonments, as casting into the Pillory, laying one by the heels, &c. Of these little is spoken more than the very names: of this sort those that do most commonly occur in Authors, are these; *Nervus, Columbar, Numella, Codex*. *Nervus* is generally thought to resemble our Stocks. *d* Some take it to be made of wood, others of iron, *e Nervum appellamus ferreum vinculum, quo pedes impediuntur: quanquam Plautus eo etiam vinciri cervices ait.* Two of the last seem to have some resemblance with our Pillory: *Columbar* had its name from *Collum*, because the neck was chiefly pained in.

c Sen. ep. 94.
De spoliario.
Vid. Lips.
Sat. 11. 18.

d Vid. Taubman in Plaut.
Aulul. 4. 10.
e Fest. Vid.
Lam. in Plaut.
Aulul. 4. 10.

n Turn. adv.
l. 23. c. 21.

in this kind of punishment. *Numella* was also a kind of Pillory, being so called, *quasi n Nuella, quod qui eo vinculo constricti erant, nuere demissoq; capite esse cogebantur.* *Codex* was a certain block or Clog, so tyed unto the Malefactors, that they used it as a stool to sit on: The use of this may seem to have been only in private houses, thereby to keep evil servants the closer to their work: Of this *Juvenal* speaketh *Sat. 2.*

o Turn. ibid.

Horrida quale facit residens in condice pellex.

o *Turnebus* describeth it thus, *Codex est ligneus stipes, quem allegati servi qui deliquerant trahebant, cuique insidebant vincti.*

CAP. 6.

CULEUS.

p Sic. pro Sext.
Rosc.

q Sen. lib. 5.
contro. 4.
in fine.

THe crime which in Latine we call *Paricidium*, is murder practised by Father or Mother towards the children, or by the Children towards either of their Parents. It had in old time a larger acception, signifying any murder between Man and Man, and then it was called *Parricidium, quia par parem occiderat.* The word taken in his first and proper signification, denoted a fact so unnatural, that neither p *Solon* nor *Romulus* would determine any punishment against such offenders, because they thought none so wicked as to commit it, and the prohibition it self might prove a kind of irritation to provoke some to the commission of the crime, which otherwise would never have entered into their hearts: but the wickedness of the after-times, enforced Lawgivers to invent a sharp punishment against such unnatural offences. The punishment decreed against Parricides in q *Seneca's* Age, was that such Malefactors should be sowed up in a leathern sack, together with serpents, and so cast into the Sea: afterward there was sowed up in the same sack an Ape, and a Cock, and at last a Dog. Whence *Juvenal.* *Satyr. 8.*

Cuius

Of the Roman Punishments.

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Cujus supplicio non debuit una parari

Juv. sat. 8.

Simia, nec serpens unus nec culcus unus.

a *Modestus* describeth the manner thereof thus: The Paricide being first whipt with rods until the blood came, then was he sewed up in this sack called *Culeus*, together with a Dog, a Cock, a Serpent, and an Ape. b They would not cast him naked into the Sea, lest the water thereof thereby might be polluted, wherewith all other pollutions in their opinion were expiated.

a Digest. lib. 48. ad legem Pomp. de Parric. vid. Cael. Rhod. l. 11. c. 21. b Cic. pro Sext. Rose.

C A P. 7.

Eculeus, Lamina, Ungula, Fidicula, χονισμός.

E*Culeus* had its derivation from *Equus*, quasi *Equuleus*, as may be collected from that Description which c *Turnebus* giveth; but not so much from the posture or situation of the offenders body on the Engine, as *Turnebus* would have it, for he in no wise resembled a Man on horseback, but rather from the horsing or hoising up of the party fastned with ropes unto the *Equuleus*, so that his hands being tied fast at the upper part of the Engine, and his feet at the nether part, he was hoised up in the Air like unto one fastned on a Cross. The form of the *Equuleus* I conceive thus: It was not one intire stake, but rather two long pieces of timber joyned together in form of a stake; joyned together, I say, by the means of a vice or scrue, and the reason hereof was, that by help of this scrue, the upper part of the Engine might be lifted up to the racking and torturing of the Malefactor, or let down to the easing and remitting of his pains, as should seem good to the Executioner, or other Officers, who now and then would grant some remission and respite in hope of a confession. For in the first institution the main end of this torture was to work out the knowledge of the truth. Neither did they alone rack the parties joynts in this kind of punishment, but to enforce him unto a confession by an augmentation of his pain

C c

they

d Sig. de Jud.
l. 3. c. 8.

z Sozo. hist.
Ecclef. l. 5.
f. Prudent. in
hymno. Vin-
cent. Mart.

g Turn. adv.
l. 4. c. 3.

they did often with hot plates and iron pinfers, burn and tear his flesh from his sides; and all this we shall find warranted by d Sigonius, whose words I have written down at large, *Eculeus catasta fuit lignea, cochleata, ad intendendum ac remittendum apta, atq; ad torquendos homines, ut facti veritas eliceretur, instituta. Tormenti vero genus erat hujusmodi, ubi catastæ huic brachia pedesq; ejus, qui torquendus erat, nervis quibusdam, quæ fidiculæ dicebantur, alligaverant, tum catasta intenta atq; in altum erecta, ut ex ea quasi ex cruce quadam miser ille penderet, primum compagem ipsam ossium illius divellebant, deinde candentibus ejusdem corpori laminis admotis, atq; bifurcis ungulis ferreis lateribus laniatis doloris acerbiter augebant.* And thus we see what the use of those *Lamina & Ungulae* were: namely, that they were not several torments of themselves, but adjuncts to this, to increase the pain. The *Eculeus* was sometimes called *e lignum tortorium*: sometimes *f stipes noxiatis*. The torturing Engine called *Fidicula*, was not much unlike: *Fides* signifieth the string of any musical instrument, and the Engine had its name from the strings and cords wherewith Men were tortured upon it: of this g Turnebus writeth, *Fidiculae quæ in tormentis numerantur, mihi videntur lascivia quadam joci nomen in venisse, quod ut in fidibus nervi, item quoq; ut nervi hinc & inde multis funibus homines distendebantur.* The torment *Χοισμὸς* used by the Grecians, was either this same or very like.

CAP. 8.

De rupe Tarpeia dejectio. De lapide empti. A furca redempti. Scale Gemonia. Tunica. Damnatio in gladium, ludum, ad bestias.

Malefactors for notorious offences were tumbled down headlong from a certain rock in the *Tarpeian Mount*. This kind of punishment was called either simply *Dejectio è saxo*, or *Dejectio è Tarpeia rupe*. In some cases notwithstanding by the intercession of Friends, or some other means, Pardons were sometimes obtained for the condemned Persons, whereby they were freed from death, howsoever the disgrace and infamy cleaved ever after unto them, and therefore they were termed *de lapide empti*: which phrase *h Coel. Rhod.* hath parallel'd with *h Coel. Rhod. ant. l. 25. c. 22.* that, *à furca redempti*, that is, *Saved from the Gallows*. In the *Aventine Mount* was a place of like nature, called *Scale Gemonia*, certain stairs whither condemned persons were dragged, and so cast headlong into the River *Tiber*. *Coel. Rhod.* seemeth to be of another opinion: *i* who describing this punishment, saith, that a hook was thrust into the Malefactors throat, and so he haled by the Executioner unto these stairs, where having his thighs broken he was burnt. Furthermore he addeth, that they were called *Scale Gemonia*, or *gradus Gemonii*, because as some are of opinion, the first that suffered this kind of punishment, his name was *Gemonius*, or as others would have it, because it was *locus gemitus, & calamitatum*. If we admit that Malefactors were here burnt, then may we think this punishment *ad Scalas Gemonias* to be the same, which sometimes was called *Tunica*. The reason of which name was because persons thus to be burnt, were clad with a Coat dawbed in the inside with pitch and brimstone. Thence is that of *k Seneca, Cogita illam tunicam alimentis igneam & illitam & intexam.* This giveth light to that of *Juv. Sat. 8. Tunica punire molesta.* *k Sen. ep. 14.*

l Tertul. ad
Martyr.

m Vid. Lipf.
Sat. l. 2. c. 3.
n Lipf. fat.
l. 2. c. 23.

o Alex. ab A-
lex. l. 3. c. 5.
p A. Gel. l. 5.
c. 14.

l *Tertullian* also mentioneth it in this fence. To these may be added two other Punishments usually inflicted upon fugitive servants, but yet not so restrained unto them, as that they were not sometimes extended to other Malefactors. The first is *Damnatio in gladium*, a condemning one into a Fence-school, there to be trained up in the Art of Fencing, until some publick prizes were plaid, at what time such a condemned Person was to fight for his life. m *Capitolinus* called it *Ad gladii ludum deputationem*. But *Ulpian*, as n *Lipsius* elsewhere observeth, differenceth these two phrases thus: He that was *ad gladium damnatus*, was either presently put to death, or else at farthest within the compass of a year: but he that was *damnatus in ludum*, had not death so peremptorily sentenced upon him; if he escaped the danger of those publick prizes, and always got the upper hand of his adversaries, at three years end he received the *Rudem*, or wand, which was a token of discharge from those bloody combats: yea, at five years end he received the *Pileum* or Cap, which was a token of his Enfranchisement or Freedom in the City. The second sort was *Damnatio ad bestias*, a condemning of a Man to fight for his life with Beasts, as with Bears, Leopards, Lions, &c. The Persons condemned were termed o *Bestiarii*. A memorable example thereof we have in a certain Roman Servant called *Androclus*, p who having run from his Master, lived in a Wilderness, and whilst he rested himself in a Den, there came a fierce Lion unto him, moaning and grieving because of a stump of a Tree which stuck fast in his foot; *Androclus* at the first began to be affrighted, but the Lion coming nearer and nearer unto him, and laying his foot on the Mans lap, intimated his desire of help from him, which when the Man perceived, he plucked out the stump, and gave him what ease he could. Afterward this fugitive being apprehended and adjudged to this punishment, it hapned that this very Lion was brought into a shew-place for *Androclus* to fight with, where instead of

a fierce on-set, the Lion used a tame and familiar fawning on him, whereupon the spectators admired, and understanding the former passages between *Androclus* and the Lion, they released the servant, and freed him from his Punishment. Where we must note, that this Pardon was extraordinary: q for usually if any so condemned happened to overthrow a Beast or two, yet was he not thereby discharged, but was to encounter with others until he were killed. Yea, it was very seldom that the Man could prevail against the Beast, on the contrary, one Lion hath prevailed against two hundred Men, according to that, r *Præclara adilitas, unus Leo ducenti bestiarii*. By which we see many Men one after another did thus fight with beasts at the same meeting; yea the *Grecians* called such as succeeded the first Combatants ἐφεδ'εξς, the Apostle St. Paul t calleth them ἐξοάτ'ες, because they were reserved until the last. u *Tertullian* readeth that place in this sense, and the words themselves enforce as much: for what shall we understand by δ'εατερον ἐνέδμυλ'ε, but the very spectacle or shew it self? and what by ἀπ'εδ'εξεν, which signifieth properly *ostendit*, but an allusion to him who was the chief Author and exhibiter of these bloody spectacles unto the people? * *Lipsius* hath parallel'd that phrase of *Tully*, *Ostendere munus*, with that of *Suetonius*, *proponere munus*; both signifying the setting forth, or bestowing the sight of such masteries and fightings. And that it was no unusual kind of Matyrdom in times of the Primitive Church, thus to expose holy Men to the fury and rage of wild Beasts, appeareth by the example of *Ignatius*, who rejoyced to be ground between the teeth of wild Beasts, that he might be found pure Bread, whose words were, x *Frumentum sum Christi, & per dentes Bestiarum molor, ut mundus panis Dei inveniar*: yea the word ἐμδ'αυατίς *morti addictos*, helpeth this interpretation: The word intimateth that there was a sure death remaining for them also though the last. The custom being in the morning to commit Men with Beasts, but those.

q Salmuth in Pancirol. de veter. ludis.

r Cic. in orat. pro Sestio.

s Suidas in voce.

t ἐφεδ'εξς.

u 1 Cor. 4. 9.

u Tertul. lib.

de pudicit.

* Lipf. Sat.

l. 2. c. 18.

x Iren. adv.

har. l. 5. c. 28.

It. Euf. hist.

Eccl. 3. c. 33.

y Suet. Clau.
c. 13.

z Sen. ep. 7.

those *ἐχθροὶ* which remained till noon-tide, and were therefore called y *Meridiani*, was committed each against other, and that without any defensive weapons, with swords in one hand cutting, and with the other hand being empty, grasping and tearing each others flesh, so that z *Seneca* speaking of this, comparing it with that former fighting with beasts, saith, *Quicquid ante pugnatum est, misericordia fuit.*

CAP. 9.

Ergastulum. Ergastula inscripta. Pistrinum. Damnari in Antliam. Metallum. Inscripti. Stigmati. Literati. Virga. Flagella. Talio.

THE state and condition of servants was various and differing among the *Romans* in old time, but of all they were most miserable who lived in prison. Whence those that were ordinarily employed in these prison-services, they were either such Servants as were bought for that purpose, or such as for notorious crimes were adjudged thereunto in way of punishment, whence the word *Ergastulum* is justly derived from the Gr. *ἐργαστομαί* because it is *τῇ ἐν ᾗ οἱ δεσμῶται ἐργάζονται*, *locus in quo vincti operantur.* For even in the day-time when they were sent to work, they had shackles and bolts about their legs to prevent their scapes or running away, though not so big as those into which they were cast at night when they returned into prison. Their fetters or bolts are oftentimes in ancient writers (peradventure from the form of their links) termed *Annuli*, and themselves said to have *pedes Annulatos*. They had also their foreheads marked or burned with some letters of infamy, which is the reason of *Juvenals* Epitheton, *Inscripta Ergastula.*

Quem mire adsciuunt inscripta Ergastula.

The labours in which they were employed, were sometimes digging, delving, and tilling the ground: sometime digging of quarry-pits, sometimes grinding with an hand-mill, sometimes drawing water; this latter kind of

of punishment in *m Suetonius* his phrase is *Antliam dam-* *m Suet. Tib.*
nari. Those Criticks who for the word *Antlia* do substi- *c. 15.*
tute *Anticyra*, or *Andia*, or such like names of Islands, do
utterly fail of the Authors scope and drift; for the pu-
nishment which *Suetonius* speaketh of, is some strange or
unusual punishment: now seeing that Senators them-
selves were often exiled, it could not seem strange that
Roman Knights should be banished into Foreign Lands;
but this was a matter unusual, and unheard of that a
Roman Knight should be employed in such drudgeries.
Again, the word *Antlia* fitly denoted such a kind of la-
bour, whether we respect its Etymology ἀπὸ τοῦ ἀντλῆν, or
its signification in Latine Authors, it being used by them
to signify a great bucket, or water-scoop to draw up wa-
ter. Thus *Martial. Curta laboratas antlia tollit aquas.*

The hand-mill is often exprest by the Latine word *pi-*
strinum, a word frequent in Comical Authors. It much re-
sembled our *Bride-well*, or place of correction, being cal-
led *pistrinum à pinsendo*, from pounding. For before the
use of Mills was known, the Romans did pound their
corn in a great mortar, calling the place where they
pounded it *pistrinum*: whereupon our hand-mill hath
retained the same name to this day. And because of the
great pains that Men did suffer in pounding, as likewise
the strict discipline used towards servants thus punished
(for *n* their neck was thrust into a certain wooden En- *n Turn. adv.*
gine called *Pausi cape*, made for the purpose, lest haply in *l. 4. c. 13.*
time of grinding they might eat of the meal) hence grew
a custom among them, that when a servant had offended
his Master he would menace him in this manner, *In pi-*
strinum te dedam, I will cast thee into *Bride-well*. The pu-
nishment *Metallum* was not much unlike the digging in
metal-mines, and working in metal-houses, it appeareth
not only to have been a base and servile, but also a very
laborious and painful work: whence it was esteemed a
grievous punishment to be adjudged to metal-works, or
cast into a metal-house. And either for the increase of
such

o Vid. Cœl.
Rhod. l. 10. c. 5.

p Terrul. A-
polog. c. 44.

q Plin. l. 18. c. 3.

r Cœl. Rhod.
l. 7. c. 13.

such Mens pains, or for to keep them from escapes they were enforced to work with their fetters and gyves about them, as is implied by o *Ulpian*, who makes the difference between these two Phrases, *Damnari in metallum*, & *Damnari in opus metalli*, to be thus; that the first sort did wear heavier and greater fetters than the last. How true the difference is, I leave it to the inquiry of others, but that it was a great and infamous Punishment p *Tertullian* witnesseth, in that speech of his against the Heathen People, *De vestris semper astuat carcer, de vestris semper metalla suspirant*. Sometimes there was only ignominy and disgrace intended in their Punishments, of which sort was the bearing up and down the *Roman furca* in the Market-place, or elsewhere in publick view, whereof I have spoken in the Chapter of *Furca*, likewise a branding of the Malefactor with some infamous letter in the forehead or hand, or some other part of the body: whence q *Pliny* calleth such servants *Inscriptos*. Generally they are called *Stigmati*, from $\sigma\tau\gamma\mu\alpha$, which signifieth to brand with marks; as *Nebulo stigmaticus*, a rogue burnt in the hand, or any way marked; sometimes such are called *Literati*. The *Athenians* being enemies to the *Samii*, r as often as they took the Captives, they did use thus to burn them for rogues, which occasioned that proverbial scomme, *Samii neminem esse literatiorem*.

Sometimes besides the disgrace, there was also toilsom pains, as appeared by their *Ergastula*, and sometimes to their pains, stripes added: Tho I deny not, but that many times, correction with stripes was a preparation for death it self. This correction by stripes was twofold, either it was *Verberatio*, or *Flagellatio*: The first was with rods called *Virga*; the other with scourges called *Flagella*. That there was a difference between *Virga* and *Flagella*, is plain by *Tully*, where by way of Irony he saith, *Porcia lex virgas ab omnium civium corpore amovit; hic misericors flagella retulit*. Both of them were counted servile, so that free-Men were ordinarily exempted from them, as appeareth,

— Ad

Of the Roman Punishments.

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— m *Ad necem operire loris.* San. loris liber?

m Ter. Adel.

Horace also intimating the servile condition of *Meva*,
faith, act. 2. scen. 1

n *Sectus flagellis hic triumviralibus.*

n Epod. Od.

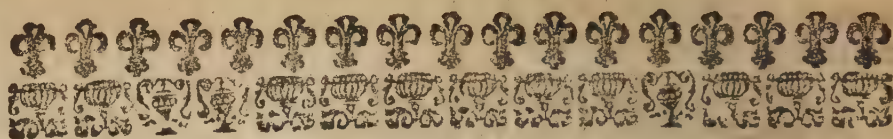
They are called *Flegella triumviralia*, from those *Triumviri* whom formerly I translated *Sheriffs*, because to them belonged the oversight of the punishment. *Eustathius* calleth them ἀσφαλῶτα μασίχα, i. e. *Flagratalaria*, seu *taxillata*, because to augment the pains, they did usually in these scourges tie certain huckle-bones, or plummets of lead at the end of the whip-cords, or thongs, and such scourges they termed *Scorpiones*. The cruelty of the scourges was such, that they many times died under them. Thus have we generally and briefly touched the more usual Punishments. But sometimes wrongs done between party and party, were punished with a retaliation of the same kind: according to that, *A tooth for a tooth, and an eye for an eye*. And this kind of punishing was called *Talio*. Yet we are to know that a simple retaliation, such as is termed *Talio Pythagorica*, was not always exacted; but sometimes satisfaction might be wrought by a commutation of the Punishment. *O Reus* *habuit facultatem paciscendi & non necesse habuit pati talionem, nisi eam elegisset.* It were endless to speak of all their punishments, and haply not worth the labour, their very names being sufficient Comments to explain them. As *Effossio oculorum*, *Amputatio manuum*, *Crucifragium*, *Talifragium*, and such like.

Tholosan. in
sentag. jur.
univ. c. 11.
l. 31.

A. Gel. l. 11.
c. 1.

D d

LIB.



LIB. III. SECT. IV.

Of the Roman Laws.

CAP. I.

De Legibus.

HAVING spoken of the Civil Magistrates, and Punishments, we will now also descend unto the Civil Law: where first we will note among other differences between *Jus* and *Lex*, principally these. 1. *Lex* signifieth only the Law, but * *Jus* signifieth also that place, wheresoever the Law or Justice was administred: not only if it were administred out of the Tribunal in the *Comitio*, or great Hall of Justice, which was termed by the Lawyers, *Agere pro Tribunali*: but also if it were administred in a private house, or in ones journey, so that it were by a lawful Magistrate, and out of a curule Chair; and this was termed by the Lawyers, *Agere de plano*: and hence is it, that *In jus vocare* signifieth to cite one into the Court. 2. *Lex* signifieth only the written Law, but *Jus* signifieth equity, so that *b Jus* *permaneant semper nec unquam mutetur, Lex vero scripta sapientius*. Notwithstanding these two words are used promiscuously one for the other, and therefore leaving all curious differences between those words (whether the Roman Laws were truly *Jura* or *Leges*) thus much we may observe, that the Laws used among them were of three sorts:

* Sig. de Jur.
l. 1. c. 7.

b F. Sylv. in
orat. pro Mil.

sorts: either they were such as were made by several Roman Kings, and afterward collected and digested into a method by *Papirius*, *c* from whence it was called *Jus c* F. Sylv. in ep. virorum illust. l. 5. ep. 11. *Papirianum*: or they were such as the *Decemviri* brought from *Athens*, and were called *Leges 12. tabularum*: or lastly, they were such as the *Consuls*, the *Tribuni Plebis*, and such Magistrates did prefer, whence every several Law bore the name of him or them that preferred it. My purpose is to explain only this latter sort, and that not all of them, but such alone as I have observed in *Tully*, and that chiefly in his Orations. My proceeding shall be first to shew the divers kinds of Judgments: and then to descend unto the Laws themselves, beginning with those which shall concern the *Roman Religion*, and then proceeding to the others which concern the Commonwealth.

C A P. 2.

De Jure publico & privato.

THE cases to be decided by the law were either public or private, and accordingly were the Judgments, *d vel privata, in quibus jus suum privatus quisq;* d Si. de jure Rom. l. 2. c. 18. *persequebatur: vel publica, in quibus injuria que rep. facta erat vindicabatur.* The private (as we observed before) belonged unto the *Prætori urbano & peregrino*, that is, the L. Chief Justices, who did either give Judgment themselves, and then were they said *judicare*, or they did appoint others to sit in judgment, and *e* then were *e* Sig. de jud. l. 1. c. 7. they said *Judicium dare*: in the absence of the *Prætors* there were ten call'd *decem-viri Sittibus judicandis*, i. e. *f super lites judicandas*, who in the same manner as *f* Rosin. ant. l. 7. c. 29. the *Prætor*, might either give Judgment themselves, or appoint others, for they were even in *g* one place *g* Alex. Gen. dier. l. 1. c. 16. and instead of *Prætors*. Those which either the *Prætor* or the *Decem-viri* did appoint to debate the cases under them, were taken out of the *Centum-viri*, that is, *b* P. Ramus in 2. m. de lege Agrar. out of certain Commissioners chosen for that purpose

pose, namely three out of every Tribe or Ward: so that in all, the number of them amounted unto an hundred five: but in round reckoning they went for an hundred: and from a certain spear that was wont to be erected up in token of this court, hence was the *i* court called either *Pratoria Decemviralis*, or *Centumviralis hasta*. In some cases their form of acquittance was thus, *k Secundum illum litem do*. Whence *l Tully* saith, *quo minus secundum eos lis detur, non recusamus*, that is, we do not deny but they may be acquitted. Those that were cast in their suit, were said *Lite vel causa cadere*. The publick cases belonged ordinarily (except the *Consuls*, the Senate, or the people did interpose their authority) unto those whom we called *Pratores Quasitores*. Some have thought them to be the same with those whom *m Rosinus* calleth *Judices Quastionum*, and that I think not altogether upon unsure grounds: first because most of these publick cases which they termed *Quastiones*, had their *n* several *Prators* to enquire them, whence they were called *Quasitores*, and may in my opinion be called *Judices Quastionum*, especially seeing that those which would have them be different officers, cannot well shew the differences of their offices. Now as the Urban *Prator* had an hundred Commissioners under him, so had these *Pratores Quasitores* certain Judges chosen *o* by the Urban, or foreign *Prator*, when he took his Oath: and that not according to his pleasure as many as he would, or whom he would, but sometimes more, sometimes out of both, sometimes out of the *Senators*, sometimes only out of the order of *Roman Gentlemen*, sometimes out of both, sometimes also out of other orders, *p* according as the Law appointed, which oftentimes varied in those points. The Judges how great soever the number was, *q* were called *Judices selecti*, and were divided into several Companies called *Decurie*. These Judges were upon any citation from any of the *Prators*, to give their assistance in the Court upon the day appointed by the *Prator*. Now the manner how they

i Sig. de jud.
l. 1. c. 28.
k Sig. de jud.
l. 1. c. 29.
l Cic. pro Q.
Rocio.

m Rosin. ant.
l. 2. c. 18.

n Sig. de jud.
l. 3. c. 4.

o Sig. de jud.
l. 3. c. 6.

p Sig. ibid.

q Sig. de jur.
Rem. l. 2. c. 20.

they did proceed in their judgment, followeth in the exposition of one of the Laws, and therefore I will refer the Reader thither. Only let him by the way understand, that whereas *Tully* is quoted in every Law, it is not so much for the proof the Law, as to signify that he in that place maketh mention thereof. For the proof of the Laws I refer the Reader to *Rosinus* and *Sigonius*; touching the expositions my marginal Quotations do prove sufficient.

C A P. 3.

De Legibus religionem spectantibus.

Lex Papiria.

L• *Papirius Trib. pleb.* established a law touching the consecration or hallowing of places, that it should be unlawful for any to consecrate either houses, grounds, altars, or any other things, *Injussu plebis*, that is, without the determination of the Roman people in their Assemblies, called *Comitia Tributa*, which determination was always termed *plebiscitum*. Cic. pro Do-
mo.

Roscia Lex.

L. Roscius Otho Trib. pleb. preferred a Law, that where- as heretofore the Roman Gentlemen did stand promiscuously with the commons at their theatral shews, now there should be fourteen benches or seats built for those Roman Gentlemen, which were worth *H. S. quadraginta*, that is, about 3125 l. of our English Mony. As for other Gentlemen, whose substance was under the rate, they had a certain place allotted them by themselves, with a Punishment imposed upon them, if they offered to come into any of those fourteen benches. Cic. Phil. 2.
It. pro Mur.

Here we must note that this character *H. S.* standeth for a silver Coyn in *Rome*, called *Sestertius*, and is by *Rosinus* in this place improperly used for *Sestertium*; for this Character *H. S.* is by our Printers false printed, the true Character *r* being *L. L. S.* signifying *duas libras* (as the two *L. L.* do intimate) and *Semissem*, which is intimated by Fr. Mat. is.
Phil. 2.
the

f Ch. Hegen-
dorphius in
Verrinam.

t P. Nunnus
in Verrin. 5.

u Ch. Hegen-
dorphius in
Verrin. 5. m.

the letter S. Where if *libra* doth signify no more than the Roman Coin called A. S. then is this opinion touching the characters L. L. S. easy to be confirmed. For divers Authors rendering a reason of the name *Sestertius*, say it was so called *quasi Semitertius*, that is, such a Coyn as containeth *Duos solidos asses & semissem*. This *Sestertius*, was such a common Coyn among the Romans, t that *Nummus* and *Sestertius* became at length one to be used for the other, u *Mille hujusmodi sestertii vel nummi faciunt unum sestertium in neutro genere, & consiciunt plus minus viginti quinque coronas*. According to which rate, *quadraginta sestertia* amounting to 3125. and every particular *sestertius* is according to this rate, in value three halfpence farthing q.

And here we may fitly observe the art of numbring by these *Sesterces*, which consisteth in three rules. First, if the numeral or word that denoteth the number be a noun Adjective agreeing in case, gender and number with the Substantive *Sestertius*, then it signifieth precisely so many *Sestertii*; for example sake; *Decem Sestertii* do signify so many times 7 l. 16 s. 3 d. 2. If the numeral being an Adjective, and of a different case, be joyned with *Sestertium* in the genitive case plural, then doth it note so many thousand *Sestertii*; for example, *Decem Sestertium* signifieth ten times 7 l. 16 s. 3 d. Thirdly, if the numeral joyned with *Sestertium* be an Adverb, then it signifieth so many hundred thousand *Sestertii*. ex. gra. *Decies Sestertium* doth signify ten hundred times 7 l. 16 s. 3 d. Yea the numeral being an Adverb, is sometimes put simply by it self, without the addition of any other word to signify in the same manner, the Genitive Case *Sestertium* being understood. For the better conceiving hereof, the former Example may be thus set down.

Decem

Decem se-	valent	10. Sesterti-	De nostro	l	s	d	ob	q
sterstii		os.						
Decem se-		10. Millia se-		0000	10	6	1	3
stertium		stertium.						
Decies se-		10. Centena		0078	02	6	0	0
stertium		Millia sester-						
Decies.		tium.		78112	10	0	0	0

Clodia Lex.

Publius Clodius Trib. Pleb. made a Law by virtue Cic. pro. Sext. whereof the Priest called *Pessinauntius Sacerdos* (from the item de A- place where he did first exercise those holy rites in the rusp. respon. honour of the Mother Goddess) should be deprived of his Priesthood, and the Temple built in the honour of this Goddess should be bestowed upon *Brotigarus* of *Gallia Gracia*.

Domitia Lex.

Cn. Domitius Ahenobarbus Trib. Pleb. enacted a Law, Cic. Agrar. that the Colledges of Priests should not as they were wont, admit whom they would into the order of Priesthood, but it should be in the power of the People. And because it was contrary to their Religion, that Churchdignities should be bestowed by the common people, hence did he ordain that the lesser part of the people, namely seventeen Tribes should elect whom they thought fit, and afterward he should have his Confirmation or Admission from the Colledge.

Lex incerti nominis de vacatione sacerdotum.

Cicero in his Orations mentioneth a Law (not naming Cic. Phil. 8. the Author thereof) whereby the Priests were priviledged & pro Font. from their service in all Wars, except only in uproars or civil tumults, & these priviledges were termed *Vacationes*. x B. Latom. in Phil. 5.

C A P.

C A P. 4.

De civitate & jure civium Rom.

Cic. pro Rab.
& saepe alias.

Forcia lex de civitate.
M. *Forcius Trib. pleb.* established a Law, that no Magistrate should beat any Roman Citizen with rods.

Lex Sempronia.

Cic. pro Cluentio, & saepe alias.

C. Sempronius Gracchus Trib. pleb. preferred a Law whereby he disabled the Magistrate from punishing any Roman Citizen, either with rods or with an ax, that is with death, without the allowance of the people. Secondly, by virtue of this Law, if any Magistrate did condemn any Roman Citizen *Indicta causa*, he should be liable to the judgment and censure of the people. A third clause to this Law was, *Nec quis coiret, conveniret, quo quis judicio publico circumveniretur indicta causa*. He was said to be condemned *causa indicta*, which was condemned before he had spoken for himself. Although *y Indicare pro non dicere, sicut invidere pro non videre vix reperiatur, tamen indictum & invisum, pro non dicto & non viso, saepe reperiuntur.* *z* They were properly said *Coire*, which did work underhand against a Man, that he might be condemned; we may translate it in this place to *Conspire*. *a* The verb *Circumvenio* doth commonly signify as much as *Circumscribo*, to deceive or cheat one *b*: but in this place to oppress one with false judgment procured by bribery or conspiracy.

y P. Ramus in
orat. pro Rab.

z F. Sylv. in
orat. pro
Cluentio

a J. Camer. in
orat. pro Cic.
L. Flac.

b F. Sylv. in
orat. pro Cluentio.

Lex Papia de Peregrinis.

Cic. pro Balb.

The priviledges of the Roman Citizens became so great, that almost all the inhabitants of the confederate nations would forsake their own dwelling, and use means to become free Denisons in the Roman City; in so much that the Embassadors of the allies and associates, did grieve much and complain of the loss of their inhabitants: whereupon a Law was made by *Papius*, that all Foreigners and strange Comers should be expelled out

out of the City. To the same effect was *Lex Junia*, and *Cic. offic. l. 3.* also *Licinia Mutia de peregrinis*: the first being preferred *Mar. Junius Pennus*, the second by *L. Licinius Crassus*, and *Qu. Mutius Scavola*.

Servilia lex de civitate.

Cic. pro Balb.

C. Servilius Glancia preferred a law, *Ut si quis Latinus*, if any of the Latine associates could prove an action of bribery against a Senator, then should he be made a freeman of the City.

Quis Latinus.] Here we will observe with *c Sigonius c Sig. de jur.* that the Latine people were not always called *Latini* & *Ital. l. 1. c. 2.* *Italici*: sed & *socii*, & *Latini socii*, & *socii nominis Latini*, & *socii nomenq;* *Latinum*, & *socii ab nomine Latino*, & *socii ac Latinum dicti sunt.*

Sylvani & Carbonis lex de peregrinis.

Cic. pro Archia.

Sylvanus & Carbo being *Tribuni pleb.* preferred a Law, *Ut qui foederatis civitatibus adscripti essent, si tum, cum lex ferebatur, in Italia domicilium habuissent, ac sexaginta diebus apud Praetorem professi essent, cives Romani essent.*

Adscripti.] For the right understanding hereof we must note, that there were *d* two sorts of Citizens, some *d F. Sylv. in cives nati*, that is, Citizens by birth, others *civitate donati*, *orat. pro lege* that is, Citizens by donation or gift; who because they *Manil.* were added unto, and registred with the first sort of Citizens, were thence called *Adscripti cives*.

Professi apud Praetorem.] This Verb *profiteri* is sometimes *e Comitiale verbum*, and signifieth as much as *e P. Ramus in profiteri nomen*, that is, to render ones name unto a *orat. Cic.* Magistrate; and this Construction it beareth in this *Agr. 2.* place.

Lex Cornelia de Municipiis.

Cic. pro Dom.

L. Cornelius Sylla preferred a Law, that all *Municipal* States should lose their Freedom in the Roman City, and also their priviledg of having Commons in the Roman Field.

Gellia Cornelia Lex.

L. Gellius Publicola, and *Cn. Cornelius Lentulus* being *Cic. pro Bald.* *E e* *Consuls,*

Consuls, decreed a Law, that all those private Persons upon whom *Cn. Pompeius* in his Wisdom should bestow the freedom of the *Roman* Citizens, should ever be accounted free Denisons.

CAP. 5.

De legibus ad Comitia spectantibus.

Alia Lex.

Cic. multis in locis.

Q. *Alius Petus* asked a Law in time of his Consulship *ut quoties cum populo ageretur*, that is, as often as any *Roman* Magistrate did assemble the people to give their voices, the *Augures* should observe signs and tokens in the Firmament, and the Magistrates should have power *obnunciandi, & interdicendi*, that is, to gainsay and hinder their proceedings.

f Agel. l. 13.
c. 14.

Ageretur cum populo.] Here we may note the difference between these two phrases *Agere cum populo*, and *agere ad populum*; f He was said, *Agere ad populum*, whosoever made any Speech or Oration unto the people, and this might be done upon any day indifferently. But then only was it said, *Agere cum populo*, when the people were assembled to the giving of their voices by a lawful Magistrate, and the people were demanded what their opinion was in the matter proposed: and this could not be done g but upon one of those days which they called *Dies Comitiales*.

g Berfin. de ver. dier. ratione ad fin.
Ovid. Fast.
Cic. in suis orat. sæp.

Fusia Lex.

Pub. Furius sive *Fusius Philus*, being Consul, ordained a Law, that upon some certain days, tho they were *dies Fasti*, that is, Leet-days, yet no Magistrate should summon an assembly.

Clodia Lex.

Cic. pro Sext.

P. Clodius Trib. pl. abrogated both these former Laws, making it unlawful to observe signs and tokens in the Heavens, upon those days when the *Roman* People were to be assembled; and secondly, making it lawful to assemble

assemble the People upon any Leet-day what soever.

Gabinia lex.

At first, for many years the Roman people in their assemblies did suffrage *Viva voce*, at which time many of the inferior sort gave their voices contrary to their wills, fearing the displeasure of those that were of higher place. For the better help in this point, *Gabinus* asked a Law, that the People in all their Elections might not suffrage *Viva voce*, but by giving up certain tablets, the manner whereof hath been formerly shewn; whence both this and all other Laws tending to this purpose have been called *Leges tabellariae*. Cic. 3. de leg.

Cassia lex.

After *Gabinus*, *Cassius* also preferred a Law, that both the Judges in their judgments, and the People in their assemblies should suffrage by rendring such tablets; *h* but this is to be understood only of these Assemblies by Cic. in Lælio.
h Rosin. ant. l. 8. c. 3.
Wards called *Comitia Tributa*: wherein they treated of Mulcts and Merciaments.

Cælia lex.

Cælius Trib. pl. established a Law, that not only in mulcts and merciaments, but also *In perduellionis judicio*, that is, in taintments of Treason against any person of State, (namely such as were *sacrosancti*) or against the Common-weal, this *Tabellary* liberty should have place when the People should judge thereof. Cic. 3. de leg.

In perduellionis jud.] This word *perduellis* doth signifie an Enemy unto the Senate, a Traitor: and hence cometh this word *perduellio*, signifying not only the crime of Treason, but the punishment also due thereunto. *Si crimen quod erat gravissimum inter crimina, nempe imminutæ majestatis: si pœna, quæ erat acerbissima, nempe mortis.* i Cœl. Sect. Curio. in ora. pro Milone. l. 3. c. 3. Sig. de jud.

Papiria lex.

C. Papirius Carbo Trib. pl. perswaded that not only in their Elections, but in the proposal of their Laws also, this suffraging by tablets should be used. Cic. de leg. 3.

Cic. multis in
locis.

Sempronia Lex.

C. Sempronius Gracchus Trib. pl. preferred a Law, that the Associates of *Latium* should have as great right of suffraging as the Roman Citizens.

Manilia Lex.

Cic. pro Mur.

C. Manilius Trib. pl. preferred a law, that all those who were *Libertini*, in what Tribe or Ward soever, should have the right of suffraging.

C A P. 6.

De Senatu & Senatoribus.

Claudia Lex.

Cic. Verr. 7.

Q. *Claudius Trib. pl.* perswaded a Law, that no Senator or Senators Father, should have any ship which should contain above three hundred of those measures called *Amphora*, deeming that sufficient for the transportation of their Corn from the Roman Field. Secondly, by this Law the Senators were forbidden the use of trading.

l Alex. Gen.
dist. l. 2. c. 20.

Amphora.] *l Alexander Neopol.* observeth two sorts of these measures, namely, *Amphora Italica*, containing two *Urnas* and *Amphora Attica*, containing three *Urnas*: every *Urna* containing two Gallons and a Pottle. This in probability is understood of the *Italian Amphora*.

Tullia Lex.

Cic. Phil. 1.

When as a custom had grown, that many of the Senators having by special favour obtained *Liberam legationem*, upon all occasions would abuse that their authority, procuring thereby their private gain, and the encrease of their own honour; then *M. Tullius Cic.* being Consul, laboured quite to take away these kinds of embassages, which though he could not effect, yet thus far he prevailed, that whereas in former times this *Libera legatio* being once obtained, was never (not through a Mans whole life) taken from him again: yet afterward

ward this authority should never be granted to any, longer than the space of one whole year.

Legatio Libera.] We may observe in ancient Authors three several kinds of embassages : The one which is a message sent from the Prince or chief Governour of one Country to another, and that is expressed commonly by this one word *Legatio*, without any addition thereunto : sometimes it is called *Legatio mandata*. The second, which is when one purchaseth the title of an Embassador, thereby the more honourably to perform some vow made; whence it was called *Legatio votiva*. The third is the office or title of an Embassador, granted upon special favour unto a Senator, that he might with the greater authority prosecute his private suits in law, or gather up his debts in that Province whither he went; this last was termed *Legatio Libera*. All three sorts are briefly touched by *m Toxita*.

m M. Toxit. in orat. Phil. 1.

C A P. 7.

De Magistratibus.

L. *Cornelius Sylla* being *Dictator*, made a Law, that all such as would follow him in the Civil War, should be capable of any office or Magistracy before they came unto their full years. A second part of this Law was, that the Children of such as were *proscripti*, should be made incapable of the Roman Magistracies.

Cic. in Pison.

Before they came to their full age.] For *L. Villius* preferred a law, whereby he made such as were under age, to be incapable of the City-preferment, and those he accounted under age, who had not attained unto that number of years which he had prescribed each several office : and this law was termed *Lex annalis*.

n P. Ramus in Agrar. 2.

Proscripti were such persons as were banished. For the fuller understanding, look Proscription in the tract of Punishments : *Julius Caesar* did contrary to this law, *Admisit ad honores & proscriptorum liberos*, *Sueton. Jul. 41.*

Hircia.

Cic. Phil. 13.

Hircia lex.

A. Hircius made a Law, that all those that followed *Pompey*, should be made incapable of all places of office.

Cornelia Lex.

Cic. Phil. 2.

L. Cornelius Sylla finding the *Pratores*, that is, the L. Chief Justices not to give sentence always according to equity, yea sometimes to go quite contrary to their own Edict, made a Law, that every L. Chief Justice should administer Justice according to that his first Edict hang'd up at the beginning of his office. An addition unto this Law was, that the L. Chief Justice should not be absent out of the City above ten days.

Clodia Lex.

Cic. pro Sext.

In former times it was lawful for either of the Censors to censure whom he pleased, and how he pleased, except his fellow-Censors did plainly gainsay it, and make opposition therein. But many abusing this their authority, *P. Clodius Trib. pl.* made a Law, that the Censors should not over-skip any in their election of Senators; neither should they brand any with disgrace, except such as had been accused unto them, and been condemned by them both.

Valeria Lex.

Cic. Verrin. 4.

The office of a Dictator at the first institution continued but six months space, until *L. Valerius Flaccus* being *Interrex*, in the vacancy of the Consuls, preferred a Law, that *L. Cornelius Sylla* should be a perpetual Dictator.

Cornelia Lex.

Cic. 3 de leg.

L. Cornelius Sylla in the time of his Dictatorship, did by virtue of a Law preferred by him, clip the authority of the *Tribuni pl.* disabling them of bearing any office after the expiration of their Tribuneship, taking away their authority of preferring Laws, of using any solemn speech, or publick oration unto the people, of hearing appeals, of hindring any Statute or Decree tending to the hurt of the populacy.

CAP. 8.

De Legibus.

Cæcilia Didia Lex.

Q. *Cæcilius Metellus*, & *Titus Didius* being Consuls, Cic. *pro dom. sua ad pontif.* forbade that *Una Rogatione*, that is, in one and the same bill many things should be proposed unto the people; lest by that means, the people by granting the whole bill, might grant something which they would not, or in denying the whole bill, might deny some particular clause, which by it self they would have accepted. Moreover these two Consuls ordained, that before a law should be asked in the assemblies, it should be promulged, that is, hanged up to the publick view of the people three Market days.

Junia Lacinia Lex de trinuindino.

Junius Silanus, and *L. Licinius Murena* being Consuls, Cic. *Phil. 5.* established that law of *Cæcilius* and *Didius*, annexing a more severe Punishment for the breakers thereof.

Clodia Lex de intercessione.

P. Clodius Trib. pleb. made a Law that the *Trib. pleb.* Cic. *pro Sext.* should have full authority and power to propose laws: neither should they be hindered by the *Intercession*, that is, gain-saying of any.

Licinia Abutia Lex.

Licinius and *Abutius* being *Trib. pleb.* ordained, that if any preferred a Law touching the oversight, the charge or cure of any business in hand; neither he nor any fellow-officer with him, nor any allied unto him should have this oversight or charge committed to him. Cic. *pro dom. sua ad pontif.*

CAP. 9.

De Provinciis.

Sempronia de Provinciis.

C. *Sempronius Gracchus Trib. Pleb.* ordained, that the Senate every year before the election of their Consuls, Cic. *de prov. consularibus.* should

should as it seemed best to them, appoint out what Provinces the Consuls now to be elected, should after the expiration of their Office go unto; for which Provinces afterward the Consuls designed should cast lots. Another clause to this Law was, that whereas in former times by a decree from the Senate, it was lawful for the Tribunes to hinder the Roman Assemblies, henceforward they should have no authority.

Cornelia de Provinciis.

Cic. ep. 9. ad
Lentul.

L. Cornelius Sylla being Dictator, preferred a Law, that whosoever went into a Province *cum imperio*, *tamdiu illud imperium tetineret, quoad in urbem reversus esset*: whereas in former times his Rule and Government was to be resigned at the expiration of a set time appointed: yea although no successor were sent, yet could he not continue there *cum imperio* without a new Commission. A clause added unto this Law was, that after the coming of any new President or Governour into the Province, the old Provincial President should depart within thirty days.

p Sig. de jure
Prov. l. 3. c. 13.
q Sig. ejusd.
l. c. 6.

Esse cum imperio] that is, p *Exercitui præesse*, q *vel habere jus administrandi, & suis auspiciis gerendi belli.*

Titia Lex de Provinciis.

Cic. pro L.
Mur.

r Melanct. in
orat. pro Mur.

Titius or (r as some say) *Decius* preferred a Law, that the Provincial Treasurers called *Questores*, should cast lots for their Provinces: whence *Tully* in the Oration now quoted inferreth, that although *Ostia* being the better Province fell upon *Servius Sulpitius*, yet inasmuch as it fell *Lege Titia*, that is, by casting lots, he could not therefore challenge any Superiority above *L. Murana*, *sed utriusque nomen concedit in Questura*, that is, their fame and renown was equal in their *Questorship*.

Julia Lex de Provinciis.

Cic. Phil. 1.

C. Julius Caesar established two Laws touching the Roman Provinces: one, that no *Prator* should govern a Province above twelve months; nor *Proconsul* above two years. The several heads or clauses of his second Law could

could not all be found out, but those which have come to light are these : First, that *Achia*, *Theffalia*, and all *Gracia* should be free ; neither should any Roman Magistrate sit in judgment in those Provinces. (*Cic. pro domo.*) Secondly, that the Provincial Governours and their *Comites*, that is, assistants or attendants, should have hay, and all other necessities provided them on the way, by those Towns and villages through which they passed. (*Cic. in Pison.*) Thirdly, that the Provincial Magistrates at their departure should leave a book of their accounts in two Cities of their Province, and likewise should send a copy of their accounts unto the Roman Treasure-house. (*Cic. in Pison.*) Fourthly, that it should neither be lawful for the people to bestow, nor for the Provincial Magistrate to receive *Aurum coronarium*, unless it were in a triumph. (*Cic. in Pison.*) Lastly, that it should be unlawful for the Provincial Magistrate, without the allowance of the People or the Senate, to depart out of their Province, to lead forth any army, to wage War, or to go into any foreign Countrey, (*Cic. in Pison.*)

Aurum Coron.] There was a custom among the Romans in times of victory, to present unto the L. General Coronets of Gold, instead whereof the after-ages presented a certain sum of Mony, which was thence called *Aurum coronarium*. Lipf. de Mag. Rom. l. 2. c. 9.

Vatinia de Provinciis.

P. Vatinus Trib. pleb. procured a Law, that *Julius Caesar* should have the government of *Gallia Cisalpina*, and *Illyricum* for five years space, without any decree from the Senate, or casting lots. Secondly, that they also should go as Legats, or L. Deputies unto *Caesar*, without any decree from the Senate, whosoever were nominated in that Law. Thirdly, that *Caesar* should receive Mony out of the common Treasure-house towards having an army. Lastly, that he should transplant a Colony unto a certain town of *Cisalpina Gallia*, called *Novocomum*. Cic. pro Balb.

F f

Clodia

Clodia de provinciis.

Cic. pro dom.

P. Clodius being *Trib. pleb.* procured a law, that the government of *Syria, Babylon* and *Persia*, should be committed to *Gabinus*; the government of *Macedonia, Achaia, Thessalia, Græcia*, and all *Boetia*, should be committed unto *Piso*; and they should receive together with an army, Money out of the common Treasury towards their journey.

Clodia altera de Cypro.

Cic. pro Sext.

P. Clodius preferred another law, that the Island *Cyprus* should be made a Province. That *Ptolomeus* the King of *Cyprus* sitting in his purple, with his Scepter and other his Princely ornaments, *Praconi publico subjiceretur*, & cum bonis omnibus publicaretur, that is, should himself with all his goods be sold by a common Cryer. That *M. Cato* being then Treasurer, cum jure Prætorio, adjecto etiam *Questore*, having by commission the office of a L. chief Justice, and another Treasurer to accompany him, should be sent into the Island *Cyprus*, both to make sale of the Kings goods and estate, and also to bring back the Money. Lastly, it was decreed by this law, that those who lived in exilement at *Byzantium*, being condemned for some capital crime, should be brought back unto the City under the name of Romans.

Praconi publico subjiçetur.] For the better understanding of that phrase, we are to understand the manner of port-sale among the Romans; which we may read in *Sigonius* thus. Those things were rightly sold in port-sale which were publicly sold per *Praconem sub hasta*, that is, by the cryer under a spear stuck up for that purpose, and some Magistrate making good the sale by delivery of the goods. Whence I take, *publico praconi subjici*, and *hasta subjici*, to signifie one and the self same thing,

Cic. Phil. II.

namely, to be set at sale: and *Cicero* useth almost the self same phrase, *bona C. Pompeii, voci acerbissima subiecta praconis*. This kind of sale was termed *Auctio*; because, as *Sigonius* saith in the same place, to him the goods

goods were sold, *Qui plurimum rem augetet*, that is, which would bid most for it: and hence is the seller thereof termed *Auctor*, as *u Cic. Id quod à malo auctore emissent*, ^{u Verrin. 7.} that is, that which they had brought of one which had no authority to sell: and from this custom of setting up a spear in this kind of sale, this word *Hasta* alone is used, to signifie port-sale, as *x Hasta Caesaris*, the sale of *Caesar's* ^{x Cic. Phil. 8.} goods. Those who bought these goods, *y Tully calleth* ^{y Cic. in Ver.} *Señtores*, *z quia spem lucri sui señtabantur*. ^{z Cic. de jud. l. 2. c. 24.} In such kind of sales, a catalogue, or note of the goods to be sold was hanged up in tables, for the publick view of passengers. Whence such goods were termed *suspensa bona*. And if any friend would redeem the goods, then did he *dejiere libellos*, that is, put in bonds and security to answer the matter. The phrase is used by *Tully Cic. pro Quintio*. And also by *Seneca, de benef. l. 4. c. 12. Suspensis amici bonis libellum dejiro, creditoribus ejus me obligaturus*. It is thus explained by *Turnebus, adv. lib. 12. c. 9.* If the sale proceeded on, then such as proposed to be chapmen signified their desire by holding up their finger: whence *Digitum tollere* signifieth the desire of buying such goods. *Alex. ab Alex. lib. 4. cap. 26.*

C A P. 10.

De Legibus Agrariis.

THose laws were termed *Leges Agrariae*, which did concern the division of the pulick, or common fields: and these were either given by *Romulus* and other Kings, or taken from the enemies, or from private Men which had made inclosures: or lastly, bought out of the common Treasury, ^{* Vide Sigon.}

Sempronia lex Agraria.

^b *Titus Sempronius Gracchus Trib. pl.* preferred a law which forbad that any of the *Romans* should have to his own part above five hundred acres of the common fields; the one half of which it was lawful for his son to enjoy. ^{* Sig. de Jur. Ital. l. 2. c. 2.} ^{b Cic. pro Sext.}

joy. If it had so hapned, that any should enlarge these
 t Sig. de jure common fields, three surveyers called the t *Triumviri*
 Ital. l. 2. c. 2. *agro dividendo*, did mark out which was common, which
 private ground. Moreover it was by this law provided,
 that the Mony of King *Attalus*, who made the people
 of *Rome* his heir, might be bestowed upon those Citizens,
 which had by this law obtained a part of the common
 fields, to the buying of instruments for husbandry. More-
 over that the Kings lands should be farmed out at a set
 rent by the *Censors*, whence an yearly tribute should be
 paid to the people.

Cornelia lex.

Cic. in. Rul.

L. Cornelius Sylla being Dictator, preferred a law, that
 all the fields of those *Romans* which he had banished
 should be common. This publication is to be under-
 stood chiefly of those fields in *Thuscia*, near unto the City
Volater, and the City *Fesula*, which grounds *Sylla* divided
 amongst his souldiers.

C A P. II.

*De frumentariis Legibus.**Sempronia Lex.*

Cic. pro Sext.

T. *Sempronius Gracchus* being Tribune of the Com-
 mons, provided that a certain quantity of Corn should
 monthly be given unto the poorer sort at a low price, *Se-*
missæ & Triente: that is, about sixpence farthing a bushel:
 Hereupon was there a place appointed in *Rome*, for the
 keeping of this common Corn, together with certain
 laws hanged up there, called *leges frumentariae*. This place
 was called c *Horrea Sempronia*. The quantity of Corn laid
 up in every City for this purpose is by the latter Lawyers
 termed *Canon*: as *Canon Alexandrinus*, *Canon urbis Romæ*,
 &c. vide *Stuck. de conviv. lib. 1. cap. 35.*

c Rosin. ant.
l. 8. c. 21.

Semissæ & triente.] It appeareth by the next law that
semissis in this place must signifie the same as *senis æris*
 doth there: Whereby we may note, that *semissis* doth not
 always signifie the half part of the *Roman* coyn called
As,

As, but sometime it signifieth a greater coyn, valuing almost our sixpence.

Clodia lex.

P. Clodius Trib. pl. ordained, that that Corn which *Cic. pro Sext.* heretofore was sold to the poor *senis aris & trientibus in* in Pison. *singulos modios*, that is, for six pence farthing a bushel, should hereafter be given *gratis*: the charge and oversight of this dole was committed to *Sext. Claudius*.

Terentia Cassia.

M. Terentius and *C. Cassius* being Consuls, preferred *Cic. Ver.* a law, *Uti altera decumæ à proviciis coemerentur, pretio in* 5. & 7. *singulos modios H. S. trium constituto: Item ut civitatibus equaliter imperaretur, pretio in singulos modios H. S. quatuor constituto.*

For the better understanding of this law, we must note *d* a threefold tithe paid by the Provinces. The first was *d Sig de Jur.* the tenth part of the grain growing in the Province to *prov. l. i. c. i.* be paid in *gratis*, and that was properly called *Decumæ*, or *frumentum Decumanum*, and those that took this tithe to rent, were called thence *Decumani*. A second sort of tithes was a certain quantity of corn taken up for the *L.* President, or chief governour of the province, to keep his house, and that was called *Frumentum æstimatum*, that is, Corn gathered by way of taxation: for so this word *æstimo* coming from *as* doth signifieth, *Est autem* *æstimare ab ære dictum, id quod vulgo dicunt, appreciare &* *F. Sylv. in orat.* *taxare.* *pro Cluentio.* The third sort of tithes, was when the Senate finding scarcity of Corn in *Rome*, did enjoin the Provinces to sell them a quantity of Corn at a price set down by the Senators themselves, and this Corn sold upon injunction, if it was paid but once in the year, it was termed *Frumentum emptum*; but if in the same year a second sale was enjoined them, then they called that second pay, *Frumentum imperatum*. In the first clause of this law by [*altera decumæ*] is meant *Frumentum emptum*; in the second clause by these words [*civitatibus equaliter imperaretur*] is understood *Frumentum imperatum*.

Lex Hieronica.

Cic. Verr. 4.

Hiero King of *Sicily* obtained a law, wherein was set down the quantity of corn, that the *Aratores* or country farmers should pay unto the *Publicani*, that is, those which recieved the tithes; together with the time of payment, and this price agreed upon.

CAP. 12.

De legibus sumptuariis sive cibariis.

IN antient times there was a commendable frugality among the *Romans* in their feasts, but after-ages grew to immoderate excess therein: so that whole Goats and Boars, &c. were set on the table at one time. Such a hog thus dressed *Cincius* was wont to call * *Porcum Trojanum*, alluding to the *Trojan* horse; because the belly thereof was stuffed with variety of fowl and rabbits, and such like, as the *Trojan* horse was with armed Men. This kind of excess *Tiberius Caesar* laboured to redress, by serving at his table cold half-eaten dishes at solemn feasts, *b* *Suet. Tib. 34.* using this proverb, *b Dimidiatus aper omnia eadem habet qua totus.* Hence also Men of severer discipline enacted laws termed *Leges sumptuarie*, or *Cibarie*, which prescribed a moderation, not only for the charges in their greatest feasts, that they should not exceed such and such sums of Money, but also for the guests to be invited, that they should not exceed such a number. The chief of these laws were these that follow.

Lex Orchia.

C. Orchius being Protector of the Commons, by the consent of the Senate, the third year before *Cato* was *Censor*, preferred a law, whereby he only moderated the number of guests, without any limitation of the charges or superfluous expence at feasts.

Lex Fannia

Twenty two years after *Orchius* his law, *C. Fannius* being Consul, enacted another for the moderating of expences,

pences, allowing *Non plures denis assibus* to be spent in their ordinary feasts; But upon those more solemn feasts dedicated unto *Saturn*, and from thence called *Saturnalia*: likewise when any publick games were exhibited by the Roman people, he then allowed *Centum asses*, ordaining that no other fowl should then be dressed but only one hen, and that not fatted for the purpose.

Non plures denis assibus.] The Roman coyn *As* was so called *c quasi as*, because the matter thereof was brass; ^{c Varo l. 4. de ling. Lat. d Plin. l. 35. c. 4.} at first it consisted of a full pound weight; afterward in the first *Punick* war, by reason of the scarcity of Money, they made of every pound of brass six of those coyns, each valuing as much as they did at first. In the second *Punick* war, there were twelve made of every pound: at last by vertue of a law, which *Papirius* enacted, four and twenty were made of a pound; and so they continued; the value always remained the same, *videl. ob. q.* so that to allow but ten of these to a feast, seemeth a matter altogether incredible; but consider with the frugality, the cheapness of those times, it may be granted for a truth; ^{e A. Gel. 14. c. 2.} for ten of these were the price of a sheep, and an hundred the price of an ox.

Lex Didia.

Eighteen years after *Fannius Didius* ordained that the former sumptuary laws should be of force, not only in *Rome*, but throughout *Italy*; Moreover that not only the feast-maker transgressing, but all the guests, should be liable to the penalty.

Lex Licinia.

P. Licinius Crassus preferred a law in manner agreeing with the *lex Fannia*, whereby he rather confirmed *Fannius* his law being now antiquated, than made a new.

Lex Cornelia.

Cornelius Sylla being Dictator, ordained a law for the price of meats, so that he was thought by cheapness of victuals to increase rather than restrain superfluities at feasts.

Lex

Lex Antia.

Antius Restio preferred an useful law to moderate expences in feasting, which notwithstanding was violated, and in a manner abrogated by the contrary practice of the Citizens in general. For which cause, *Restio* afterward being invited, would never come to any feast, because he would not be an eye-witness of the contempt of that law which himself had caused. If any desire to see more laws of this nature, let him read *Stuck. conviv. l. 1. c. 3. Aul. Gel. l. 2. c. 24. And Macrob. Saturn. l. 3. cap. 17.*

CAP. 13.

*De re militari & bellis.**Gabinia lex.*

Cic. pro leg.
Manilia.

A. *Gabinus Trib. pl.* preferred a Law, that the managing of the War against the Pirates should be in such manner committed unto *Pompey* for three years space, that over the whole Sea between *Hercules* his Pillars, and in the Maritime Provinces unto the four hundredth *Stadium* from the Sea, he should have power to command any Kings, L. Presidents, or whole Corporations to furnish him with all things necessary to that War.

Manilia lex.

Cic. pro leg.
Manilia.

C. *Manilius Trib. pl.* perswaded a law, that the managing of war against *Mithridates* should be committed unto *Cn. Pompeius*: That the whole Province where *L. Lucullus* ruled, together with his whole army should be resigned unto him: Moreover that *Bithinia* where *Glabrio* ruled, should be added, together with all those bands and forces which he had upon the Sea against the Pirates, and all those Provinces over which the law *Gabinia* did entitle him Governour, as *Phrygia*, *Licaonia*, *Galatia*, *Cappadocia*, *Cicilia*, *Colchis superior*, and *Armenia*.

CAP. 14.

De Tutelis.

THIS word *Tutela* doth signify a Wardship, Guardianship, or protection of a Child in his nonage: whereof *f* *Camerarius* observeth four sorts, and we may with *Peditarius* add the fifth. Either the Overseers were appointed by Will; or else the next of the kin were Overseers; or the Magistrate did appoint whom he thought fit: and these three sorts *g* *Omphalius* calleth thus: the first *Testamentariam*, the second *Legitimam*, the third *Dativam*. The fourth sort *Camerarius* calleth *Tutelam fiduciariam quæ eorum est, qui emancipati desissent esse agnati*. The fifth *h* *Pellitarius* calleth *Tutelam honorariam*, namely, when as the office of Administration is committed to others, but yet certain chief Overseers were appointed to see the Will performed, who were called *Tutores honorarii*. *i* Where we must note, that the Law provided Overseers, not for Children under age only, but for Women also.

f I. Camer. in
orat. pro L.
Flacco.

g I. Omphal.
in orat. pro
Cæcinna.

h Pellitarius
pro Cæcin.

i Cic. pro Mur.

Emancipati desissent esse agnati.] By the Roman Law every Son was in such subjection unto his Father, that before he could be released of this subjection, and made free, he should by an imaginary sale *k* be sold three times by his natural Father to another Man, who was called by the Lawyers *l* *Pater fiduciarius*, that is, a Father in trust, yea and be bought again by the natural Father and so manumitted by him, and then he became free. The form of this kind of Sale, or Alienation, is set down more at large in the explanation of one of the Laws that followeth, with an example not much unlike this. This imaginary Sale was called *Mancipatio*; the Children thus alienated from the Father were termed *Emancipati*; this form of setting free was termed *Emancipatio*. This *Fiduciaria tutela* then, in my opinion was thus; That when any goods did fall unto a Child thus

k Vid. leg. 12.

l Sig. de jure
Rom. l. 1. c. 10.

G g

alienated,

alienated, by the death of his Father, then should not the oversight of this Child fall unto the next of the kin, termed *agnati*, but *Quoniam desit esse agnatus*, that is, because he had in a manner lost his alliance with his kindred, therefore should the oversight of the Child belong unto the Father in trust, termed *Pater fiduciarius*, whence the Guardianship it self was called *Tutela fiduciaria*.

Latoria Lex.

Cic. 3. de Offic. This Law made by *Latorius*, provided that there should be overseers appointed for those which were distracted, or did prodigally waste their patrimony. For, as it appeareth by the common adage, *Ad Agnatos & Gentiles deducendus est*, they did account all Prodigals mad Men; they meaning no more by that, than we do by our English Proverb, when we say of a Spend-thrift, Let him be begg'd for a Fool. The reason of their adage was, because if any were distracted, by the Roman Law his wardship fell *Ab Agnatos & Gentiles*, that is, to the next of the kindred.

C A P. 15.

De Testamentis.

BEfore we descend unto the Laws themselves, we will explain those three divers sorts of Wills in use amongst the *Romans*; namely, *Testamentum calatis comitiis*: which was so called, because twice in the year in time of Peace the Roman People assembled themselves together, to this end and purpose, that if any would make his Will, the whole People might bear witness thereunto: These Assemblies were termed *Calata comitia*. Secondly, *Testamentum in procinctu*, that is, when a Souldier in time of War, ready to give battel, did call out three or four of his fellows, and in the audience of them did by word of mouth pronounce his last will and Testament. Thirdly, *Testamentum per emancipationem familiae*, that is, by making over his Goods and Possessions under

a feigned form of sale, unto a second party, called *Heres fiduciarius & imaginarius*, i. e. an heir in trust, who should afterward resign them unto the true and lawful heir: and this imaginary kind of sale was performed with certain Solemnities *circa as & libram*, and also the sale it self was sometimes called *Nexus*, as likewise *Emancipatio*. Hence was the will sometimes called *Testamentum per as & libram*, sometimes *Testamentum per nexum*. For the proof of this which hath been delivered, touching the three sorts of Wills, I will refer the reader to *m Si-gonius*.

*m Sig. de jur.
Rom. l. i. c. 12.
Cic. Ver. 3.*

Furia lex.

C. Furius Trib. pleb. made a law, that it should not be lawful for any to give away, in way of legacy unto any, except to the kinsmen of him which manumised him, or some other certain persons, *supra mille asses*, that is, above fifty shillings, or thereabout, there going two *Asses & semis* to the making of one *Sestertius*.

Voconia Lex.

Q. Voconius Sexa Trib. pl. tulit legem, Ne qui census *Cic. Ver. 3.*
esset, virginem neve mulierem supra quadrantem suorum bonorum heredem institueret, plusve cuiquam legaret, quam ad heredem, heredemve perveniret.

Census.] This word *Census* doth sometimes signify all such as have tendred the just valuation of their Estate unto the Censors: and then *Incensus* is opposite unto it; signifying such an one as hath not tendred his Estate or Name to be registred by the Censors. But in this place *Census* is taken for such a rich Man, whose Estate was in the Censors Book valued at one hundred thousand *Sesterces* (*Vid. Asconium in Verrem 3.*)

Supra quadrantem suorum bonorum.] That is, no Woman should be heir to more than one quarter of such a rich Mans goods. For the right conceiving of this we must note with *n Letomus*, that the whole Inheritance *n Bart. Lat.*
(were it never so great) was termed *As*, and that was di- in orat. pro-
vided into twelve parts, which the Lawyers called *Uncia*: *Cacinna.*

o Alex. Gen.
dier. l. i. c. i.

Due uncia dicebantur Sextans, tres Quadrans, quatuor Triens, quinq; Quincunx, sex Semissis, septem Septunx, octo Bessis, novem Dodrans, decem Decunx, undecem Denux, Totum As, ut dictum est. Again, every *Uncia* was divided into six parts, called *Sextula*: *Due sextula Duellam, tres Semunciam faciunt.* So then according to the Lawyers (as o *Alexander* observeth) if there were one heir alone instituted, he was termed *Heres in Assem totum institutus*, if otherwise there were many Co-heirs, then was it according as the Testator did appoint. Some were *ex Denuce Heredes*, that is, heirs to eleven parts of his goods, there being but one part bestowed from him: some were *heredes ex quadrante*, that is, heirs to one quarter of his goods: others were *heredes ex semuncia*, that is, they had the four and twentieth part: others were *sextula aspersi*, that is, they had the threescore and twelfth part of the whole *As*, that is of the whole Inheritance, be it more or less, &c. Here we must understand that there is great difference between these two phrases, *Institui heres in totum Assem*, & *ex toto Asse*; for all those which we nominated *Heredes*, whether it were *ex Dodrante, Quadrante, vel semuncia*, or howsoever, yet were they termed *Heredes ex toto Asse*, that is, they were not *Legatarii*, such as received legacies. Now none can be said *In totum Assem institui*, but he which is the alone and sole Heir unto the whole.

CAP. 16.

De usu-capione.

Atinia Lex.

Cic. Ver. 3.

p Sig. de jur.
Rom. l. i. c. ii.

A *Timius* made a Law, that the plea of prescription, or long possession should not avail in things that had been stoln, but the interest which the right owner had in those stoln goods, should remain perpetual. The words of the Law are these: *Quod surreptum est, ejus rei aeterna auctoritas esset.* Where by *p auctoritas* is meant *jus domini*

dominii. This crime of theft, as likewise of usury, was so odious unto the Romans, that whosoever was found guilty thereof, was condemned *q Lege quadrupli*, that is, *q F. Sylv. in.* to pay four times as much : whence the informers against Ver. m. 1. such were termed *Quadruplatores*.

C A P. 17.

De Judicibus, & Judiciis.

Lex accusatoria.

Tully mentioneth a Law termed *lex accusatoria*, which Cic. pro Mur. in truth was no Law, neither was their any Author thereof : But there was such a received custom amongst the Romans, that the accuser should object against the party accused, not only the present crime then questioned, but all other scapes and faults committed long before, to the bettering of his matter : that at length this accusatory custom became in manner of a Law, and so was called *Lex accusatoria*. Vid. Franc. Sylv. in orat. pro Mur. Their custom also was to procure others to joyn with them in their Accusations ; those *f Tully* calleth *Subscriptores*, because they did subscribe unto the Accusation. Alex. Gen. dier. l. 3. c. 5. *f Cic. pro Mur.*

Lex Servilia & Sempronia.

Whereas *Sempronius* had preferred a Law, whereby he took away the authority of sitting in Judgment from the Senators, and appropriated it to the Roman Gentlemen : *Q. Servilius Cæpio* being Consul, did afterward prefer another Law, whereby the administration of judgment was divided between the Senators and the Gentlemen. Curio in orat. pro Scauro.

Rupilia Lex.

Rupilia vetabat diebus triginta sortiri dicam.] Here Cic. in Ver. we must note with *t Sigonius*, that this Law was of force only in the Province of *Sicilia* : also that it is one thing *scribere dicam*, that is, to enter an Action : another *sortiri dicam*, that is, by lots to chuse the Judges, which was thirty days after. t Sig. de jur. prov. l. 2. c. 5.

Livia

*Livia Lex.*Cic. de orat.
l. 3.

Though by virtue of *Servilius* his Law, the Senators were made capable of the office of a Judge, yet they were not thereby equally capable with the Roman Gentlemen: and therefore did *M. Livius Drusus* ordain, that the Judges should be elected equally out of both Orders, namely, three hundred out of the Senate, and three hundred out of the Gentry.

Plantia Lex.

Cic. pro Cornel.

M. Plantius Sylvanus preferred a Law, that the number of Judges should be chosen, not only out of the Roman Senators and Gentlemen, but out of the Populacy also, namely, out of every Tribe fifteen Judges.

*Aurelia Lex.*Cic. in Verr.
saep.

L. Aurelius Cotta being *Prator* made a Law, that the Judges should be chosen out of the Senators, the Gentlemen, and those Martial Treasurers or Clerks of the Band called *Tribuni aerarii*.

Pompeia Lex.

Cic. in Pison.

Cn. Pompeius Magnus being Consul, ordained that the Judges should be elected out of the wealthiest Centuries, tying the election notwithstanding to these three degrees of people, namely, Senators, Gentlemen, and Martial Treasurers; also he added that the number of Judges to examine causes should be seventy and five.

Julia Lex.

Cic. Phil. I.

C. Julius Caesar ordained, that the election of Judges should be out of the Senators and Gentlemen, only leaving out the Martial Treasurers; and this *Tully* calleth *legem Judiciariam Caesaris*.

*Antonia Lex.*Cic. Phil. I.
& 5.

M. Antonius tulit legem, ut tertia judicum decuria e Centurionibus, Antesignanis, Alaudis, Manipularibus, fieret.

Judicum decuria:] When the L. chief Justice had taken his oath, he chose out some *ex certis ordinibus, non ex omni populo*, that is, out of such degree and place, as the Law required, to sit in Judgment on those cases which were

were termed *causa publicæ*; and these Judges he afterward divided into lesser numbers called *Decurie*. *Vid. Sig. de jur. Rom. l. 2. c. 12.*

E. Centurionibus.] *Centuriones* were Captains over an hundred Footmen.

Antesignanis.] This word *Antesignanus* hath a double acception in the *Roman* Histories. Sometimes *Antesignani* do signify the third part of the *Roman* Army: for all those Souldiers that fought before the banners or ensigns, as they were called *Hastati* in respect of their weapon, so were they called *Antesignani* in respect of their ensigns before which they fought. The second part of the Army, as they were called *Principes* in respect of their prowess and valour, so were they called *Subsignani*, as fighting under the ensigns. The third part, as they were called *Triarii*, because they fought in the third, or rere-ward, so were they called *Postsignani*, as fighting behind the ensigns. Where we must not think that those which were called *Antesignani* and *Subsignani*, were altogether destitute of ensigns among themselves: (for every Maniple had his ensign) but the Eagle and other chief ensigns were carried by the *Subsignani*, and in respect had to them they had their names. And hence ariseth the second acception of this word, namely, that all those Souldiers of every Maniple, which stood in front before their ensign were called *Antesignani*, and those were commonly the best Souldiers in the Company. See for the several proofs of this, *Lips. milit. Rom. 2. dial. 3.*

Alandis.] *Jul. Cesar* pressed a legion of Souldiers out of *Gallia Transalpina*, all which afterward he made free of *Rome*. This Legion he called *Legionem Alaudarum*, from the form of their helmets, which did resemble the head of the Lark, called in French *Alauda*. *Barthol. Latomus in Phil. 1.*

Manipularibus.] Those Captains which governed a Maniple of Souldiers, were called *Manipulares*. *Fr. Maturantius in Phil. 1.*

Lex

Lex Cincia de donis & muneribus.

M. Cincius being Protector of the Commons, *M. Cornelius Cethegus* and *P. Sempronius Fuditanius* being Consuls, preferred a Law, that no Man should receive a Gift or bribe from his Client for pleading his cause. Of this we read in *Plautus*, and he called it *Legem muneralem*: also in *Tully de Senect.*

Cornelia Lex.

Cic. pro Clu-
entio.

L. Cornelius Sylla preferred a Law, that the chief Judge of the bench called *Judex Questionis*, should refer it unto the choice of the Defendant, whether he would have Judgment passed on him *Clam an Palam*, that is (as *Sylvius* observeth) either by voice or by tables.

Memnonia Lex.

Cic. in Ver.

This Law (made by *Memnius*) provided, that no action should be entred against those who were employed abroad in business for the Common-wealth. An addition unto this Law was: that whosoever should *calumniari*, that is, forge an accusation against another, a certain letter should be burnt in his Forehead in token of Infamy. This Law is sometimes called *Lex Rhemnia*. Here we may with *Fr. Sylvius* observe the difference of these three phrases *Calumniari*, *Prævaricari*, and *Tergiversari*. He which doth in his accusation forge faults never committed, is said *Calumniari*. He which undertaketh ones suit, and either will not urge reasons in the behalf of his Client, or answer the objections of his Adversary when he is able, is said *Prævaricari*, that is, to play the false Proctor. He which doth desist in his accusation, and let his suit fall, is said *Tergiversari*.

Lex incerta de Nexu.

Cic. pro Mur.

In iis rebus quæ Mancipi sunt, in periculum judicii præstare debet, qui se nexu obligavit, that is, if the buyer of any thing in that form of sale called *Nexus*, be troubled in law, the seller thereof must secure him, and save him harmless.

α F. Sylv. in
orat. pro Mur.

Mancipi sunt] * Those things were termed *res Mancipi*, which were alienated from the seller *Nexu*, that is, by such

such a form of sale as followeth. The form was thus: At the least five Witnesses, all Roman Citizens, and of full age, besides one called *Libri pens* (from holding of a pair of ballances) should be present, and the Chapman or buyer should come with a certain brass coyn in his hand, and say, (for example sake, if it were a bondslave to be sold) *Hunc ego hominem ex jure Quiritium meum esse aio, isq; mihi emptus est hoc ares*, and forthwith striking the ballance with the brass coyn, he gave it to him that made the sale. This kind of chaffering was termed *Nexus*, as we may suppose à *nectendo*, because it did bind the seller to make good the sale: y sometimes y Sylv. ibid. it is called *Per as & libram vinditio*, because of the ceremonies used in. z Now it is commonly called *Mancipatio*, * à *manus capione*, from taking that which is sold into ones hands or possession: whence the word *Mancipatus*, and *Mancipium* are used to signifie a bondslave that is in this manner sold, though sometimes *Mancipium* doth signifie the sale it self: whence *Cic.* useth this phrase *Lex Mancipii*, to signifie a clause or condition put in the sale. All things sold after this manner were termed *Res Mancipi*: b the word *Mancipi* being a noun undeclinable, as *Frugi, Cordi, Hujusmodi, &c.* and from this form of sale, the mortgaging of land for the payment of money may seem to be called *Mancipatio fiduciaria*; He which did thus receive the mortgage, or land in way of security, is said *accipere fiduciam*. *Cic. erat. pro L. Flacco.* Upon which place saith *Lambinus* in his annotations, *Accipere fiduciam, est fundum, aut aliam rem soli seu ut appellant immobilem, ab aliquo mancipare, seu accipere ea lege ut cum ille repetat remancipet.* We may conject the reason of these ballances, why they should be used in this kind of bargaining, to be because in old time they did not bargain by paying coyned Money, which was termed *Æs signatum*, but by paying a certain weight of Money, whence such money was termed *Æs grave*; and hence it is that metaphorically we translate *pendo* and *rependo* to pay and repay. Alex. Gen. dier. l. i. c. 13.

H h

C A P.

CAP. 18.

*De Majestate.**Lex Varia.*

Cic. pro Corn.

Q. *Varinus Trib. pl.* made a law, that the *Prætores Quæstores* should sit in judgment upon those, by whom the Parties or Associates had been moved to attempt war against the *Roman* people.

Julia Lex.

Cic. Phil. 1.

C. Jul. Cæsar ordaind, that such as were condemned of treason, or causing uproars in the Common-wealth, should be banished.

CAP. 19.

De Ambitu.

Those laws were termed *Leges de Ambitu*, which were made against indirect or unlawful courses used in canvasses for offices.

Fabia de ambitu.

This *Lex Fabia* restrained the number of those poor Men, who because they were wont to follow up and down, and all the day to attend such as did stand for offices, were thence called *Señatores*.

Acilia Calpurnia.

Cic. pro Mur.

M. Acilius Glabrio and *C. Calpurnius Piso*, being Consuls, made a law, that such as were convinced of sinister and indirect means used in their canvasses, should be fined at a certain sum of Money set on their heads, and they should be made both incapable of bearing office, and uneligible into a *Senators* place.

Senatus consultum de Ambitu.

Cic. pro Mur.

M. Tullius Cic. and *C. Antonius* being Consuls, a certain decree was made by the *Senate*, that if such as did either salute or attend upon those which stood for offices, were hired by any manner of reward, or if any publick prizes were occasioned to be plaid, or any publick

lick feasts made by them, they should be liable to the censure of *Calpurnius* his Law.

Tullia lex.

M. Tullius Cic. made a law, that no Man standing for an office should cause any publick prize to be paid, within two years that he either had stood or should stand for an office, unless the day had formerly been appointed by some will. *Item*, he ordained, that *Senators* being found to have used unlawful means, for the attaining of any office, should suffer ten years exilement. And the Commonality offending in that point, should be punished with an heavier punishment than the law made by *Calpurnius* laid on them. An addition unto this was, that if any being cited to this answer in the Court of their indirect means, *Si morbum excusaret*, that is, If he did urge his sickness for his not appearance, then should he undergo a penalty.

Si morbum excusarat.] So that *Tully* here seemeth to cut off that liberty, which the twelve tables permitted in these words, *Si iudex alterve ex litigatoribus, morbo sonto impediatur, iudicii dies diffusus esto.*] i. e. If either Judge, Plaintiff or defendant were sick, they should *diffundere diem*, id est, d. proferre & in aliud tempus rejicere, prorogue d. Sig. de Jud. the time of judgment. And unless some might think l. 1. c. 28. that by *morbus sonto* was meant some strange disease, *Sigonius* inferreth, that every disease is termed *Sonticus*, which hindereth us in the preformance of our business. *Sontes enim nocentes dicunt.*

Licina de Sodalitiis.

M. Licinius Crassus being Consul, perswaded ut in *Sodalitiis* *Judices* ab accusatore ex tribubus ederentur.

Sodalitia.] In the latter times the Romans in their canvasses would gather together a certain company of their side or faction to follow them, terming them *Sodales*, and these *Sodales* would, as it were, by violence force the people to suffrage with them, whence the violence offered by them was termed *Sodalitia*, Sig. de Jud. lib. 2. c. 30.

Judices ab accusatore ederentur ex tribubus.] We may read of three sorts of Judges among the Romans, or rather of three divers kinds of elections of their Judges. For either they were *Leñi sortitione*; of which more may be seen in one of the laws following; or *Editione*, by nomination or naming them, the manner thereof being thus; That either the Plaintiff should choose them all, and then were they called *Judices edititii*, or the Plaintiff should choose one half, and the defendant the other, and then were they called *Judices alterni*. *Melancthon in Cic. pro Muran.*

CAP. 20.

De pecuniis repetundis.

First touching the word *Repetunde*, *Sigonius* saith that such Mony was termed *Pecunie repetunda quæ possent repeti*, which might by the course of law be recovered. Namly, such Mony as any Magistrat, Judge, or publick Officer, did either in the Provinces, or in the City recieve as a bribe, from the Allies and Associates, or from the Roman Citizens for the administration of Justice, or the execution of any publick duty: and this kind of bribe they termed *Pecunias repetundas, pecuniam ablatam, captam, coactam, conciliatam averfam* (*Cic. in Urnis.*) But as it seemeth very probable these laws against bribery were first occasioned, for the ease and reliefe of the Roman Provinces and Allies, called in Latine *Socii*, who were much abused in this kind by the *Pro-Consuls*, *Prators* and *Questors*, &c. Whence *Tully* called this law against bribery *Legem Socialem*. Here also may
d Cic. in orat. pro L. Flacco. we note, that *d Tully* useth this phrase, *Pecuniam occupare*, for *Fænerari*, to put Mony to use. *Occupare pecuniam est collocare, inquit Nonnius, id est, Fæneri dare. Vid. Lambin. annot in orat. pro L. Flacco.*

Junia lex.

M. Junius Pennus Trib. Pl. preferred a law, that such as were convicted of bribery, *Præter litis æstimationem exilium etiam damnato esset irrogatum.* *Litis*

Litis estimationem.] Here we will consider the difference of three phrases, *Litis contestatio*, *Litis redemptio*, & *Litis estimatio*. ^e The first signifieth the producing of witnesses when both sides shall openly in the Court use the form of words, *Testes estote* : which was not done, *antequam satisfactions factæ essent*, before Sureties were put in; by the one, that he should *Judicatum solvere*, pay that which he was commanded : by the other, that he would *rem ratam habere*, that is, stand to the Verdict or Sentence in the Court. The second phrase signifieth a composition, or an argument agreed upon by both sides between themselves : *f Redimere lites est pacem facere ; qui enim paciscitur, facit ut lis non sit.* The third is when the party which is cast in the suit is adjudged to pay the Money ; or the worth of the goods called in question, together with the cost and damages in law unto his adversary. *g Litem estimare est pecuniam, & qualis fuit, & propter quam condemnatus est reus, in summan redigere, quæ de bonis ejus redigatur.* ^h And *Estimare litem est quod vulgo dicitur, Taxare lites expensas.*

^e Sig. de Jur. l. 1. c. 27.

^f Orat. pro Q. Roscio.

^g Fr. Sylv. in orat. pro Cluentio.

^h I. Tristin. in orat. pro Rabirio.

Acilia lex.

M. Acilius Glabrio made a law, that such as were accused of bribery, *Neque ampliari, neque comperendinari possent*, that is, they must out of hand receive judgment.

For the right understanding of these two words [*Ampliari* & *Comperendinari*] we must consider the antient customs and ceremonies used by the *Romans* in handling their suits of law. First, there was *In jus vocatio*, that is, a citation of one into the Court. Secondly, *Postulatio*, that is, a request put up unto the *Prætor*, that it might be lawful for the Plaintiff to enter his action against the Defendant ; whence *Postulare aliquem de hoc vel illo crimine*, is to accuse one of this or that crime. Thirdly, *Nominis delatio*, that is, the taking of the Defendants name into the Court-book : and this was termed, *Intendere actionem, vel Litem* ; and *Diem alicui dicere*, that is, to Enter an Action against one. In the second of these Acts, namely,

i Sig. de jud.
l. 1. c. 27.

℥ Sig. ejusd.
l. c. 28.
l Sig. ejusd. l.
cap. 21.

namely, when request was made by the Plaintiff unto the *Prætor*, that he might Enter his Action against the Defendant, then the Plaintiff did *Vadari reum*; that is, demand Sureties or Bail from the defendant, that he would appear upon the day appointed by the *Prætor*. And the Plaintiff did again, *Promittere vadimonium*, enter bond also for his own appearance upon the same day, which commonly was the third day following, called properly *Dies perendinus*, and sometimes *dies tertius* simply, as it appeareth by those capital letters. I. D. T. S. P. used to be written in their actions: which letters i *Probus* expounded thus; *In diem tertium, sive perendinum*. So that then properly, *Lis vel reus dicitur comperendinari*, when the giving of Sentence is deferred till the third day. Moreover, before the *Prætor* would suffer the action to be entered, he would swear the Plaintiff, that he did not accuse the Defendant *calumniandi causa*, that is, falsely or maliciously, and this kind of swearing was termed *Calumniam jurare, calumniam dejurare*, and *In litem jurare*. Now if either party were absent from the Court upon the third day except he were sick, he was cast in his Suit, and the *Prætor* did grant an Execution called *Edictum peremptorium*, whereby he gave authority to his Adversary to seize upon his goods. Sometimes there were two or three Edicts in manner of Processes or Writs, before the *Edictum peremptorium* could be obtained: sometimes it was granted at the first, and then was it ℥ called *unum pro omnibus*. ¶ Now if both parties came into the Court and did appear, then were they said *sestitisse*: so that this word *sisto* among the Lawyers, did signifie to shew ones self in the Court. Upon the third day the *Prætor* also with the whole Bench of Judges did meet, and the *Judex Questionis* (whom *Rosinus* maketh a distinct Officer differing from the *Prætor*) did cause all the *Señet* Judges to pull out certain lots out of an urn or pitcher brought thither for that purpose, and those Judges upon whom the lot fell, were to sit in Judgement:

ment: This was called *Sortitio Judicium*. Now if either the Plaintiff or Defendant did suspect any of those that they would be partial, then might he except against them, and that was called *Judicium rejectio*: Then the *Judex quaestionis* would in manner aforesaid choose other Judges in their places, and that was called *subsortitio*. Which being ended, those Judges which were thus chosen, received every one of them from the *Prætor* three tables, the one having this letter A written in it, betokening *Absolution*: whence *Tully* called it *literam salutarem*. The other having this letter C written in it, betokening *Condemnation*: The third having these two letters N L betokening *Non liquet*. After the receipt of the tables then did the *Prætor mittere vel dimittere judices in consilium*; that is, sent them to cast their tables into the urns, there being three urns or little coffers purposely provided; the one for those Judges which were chosen out of the *Senators*, the other for those that were chosen out of the *Gentlemen*, the third for those that were chosen out of the *Martial Treasurers*. Now if they did cast the first sort of tables into the urns, then the *Prætor* pronounced the Defendant absolved; if second, then he pronounced him condemned; if the third, then he pronounced *Amplius cognoscendum*, that they must have longer time to enquire. And this is properly termed *Ampliatio*, a Reprive, and in such manner is it said, *quod lis vel reus dicitur Ampliari*. The proofs for this manner of proceeding in law may be collected out of *Rosinus lib ant. 9. c. 19, 20. & 24.* and out of *Sigonius* according to the Marginal quotations. The like custom seemeth to have been received among the *Grecians*, who had three letters of their Alphabet answerable to those among the *Romans*; Θ was *damnationis symbolum*, which occasioned that of *Persus*,

Et potis es nigrum vitio præfigere Theta.

T. a token of absolution, A. of ampliation. *Vid. Erasmi Adag.* Θ præfigere. Some as it appeareth by *Erasmi*. give a reason of Θ, because it resembleth the heart of Man wounded

wounded in the midst with a Dart, others because it is the first letter of *Θάνατος*, signifying death according to that,

Infelix multis theta est mihi littera felix :

Si Θάνατον scribit, scribit & illa θόν.

Cic. pro Cluentio.

Cornelius Sylla being Dictator, ordained a law that the chief Judge called *Judex questionis* with the whole Bench of Judges, should sit upon life and death on such as had killed a Man ; on such as had with an evil intent set any place on fire : on such as should walk with any weapon either to kill or rob a Man ; on such as had either made, bought, sold, or had given any poison, thereby to kill a Man ; or any Magistrate, whosoever should cause any conventicle or secret assemblies, or should give their consent to the suborning of any Man to accuse another falsely, that thereby he being innocent might be oppressed and condemned by pulick judgment. Moreover *De ejus capite quarito*, &c. that is, Let them sit upon life and death on that Man, which shall bear false witness, that another might be condemned to death ; on that Magistrate, or chief Judge, which shall take a bribe to condemn another to death.

Parricidium.] This word doth properly signifie only a murdering of ones parents or kinsfolk, but in *Numa Pompilius* his time, it signified as much as *homicidium*, that is any Man-slaughter whatsoever.

C A P. 21.

Lex 12 tabularum de vindiciis.

S*I qui in jure manum conserunt, utrique superstitionibus presentibus vindiciis sumunto.*

Si qui in jure.] Here we must note that the custom among the *Romans* in old time was, that as often as any controversie did arise touching the possession of an house, a field, or any such like thing, the *Prætor* did go unto the house, field, or the thing questioned, being accompanied

nied thither with the Plaintiff and the Defendant, together with others whom the Law required to be present as Witnesses. This place, whatsoever it were, though in the open field, during the time that the *Prator* sat there to give judgment, was termed in Latine *Jus*, in English a Court. Where in the presence of the *Prator* and the Witnesses, the Plaintiff and Defendant did *manum conferere*, that is, as *m Camerarius* supposeth, argue and dispute the case *pro* and *con* in a solemn form of words prescribed them by the Law. For this phrase is borrowed by the Lawyers from the Art Military, where Souldiers are said *manum vel manu conferere*, when they fight hand to hand, [*utriq; superstitibus presentibus*] that is, let both parties in the presence of witnesses (so *n Festus* expoundeth *superstites*) [*Vindicias sum unto*] that is, let them take a turf of the ground: for so *o Sigonius* expoundeth *Vindicie*: though properly (as he observeth) it signifyeth the possession of a thing, rather than the thing possessed. This Turf being taken up, was carried to the *Prator*, and judgement was given upon that, as upon the whole. I do presume that in other cases, as in taking the possession of an house, &c. some other thing in manner of the turf was presented unto the *Prator*, upon which, as upon the whole, he gave judgment. In process of time, the *Prator*, by reason of the tumult of other employments, not finding convenient leisure to review every particular ground, or house called in question, it was ordained contrary to the twelve Tables, that the Plaintiff in such cases should come into the Court, and challenge the Defendant in this form of words, *Ex jure manu confertum te voco*, that is, I challenge thee to go out of the Court into the field, to use one toward the other that solemn form of words which the Law enjoyneth. Then did the Defendant either yield the possession of the ground, or else did reply, *Unde tu me ex jure manu confertum vocasti, inde ibi ego te revoco.* Then did they both, taking witnesses with them, without the company of the *Prator*,

*m I. Camerar.
pro L. Muræ.*

*n Rosin. ant.
l. 8. c. 29.*

*o Sig. de Jud.
l. 1. c. 21.*

*Vindiciam
ferre est sen-*

tentia decre-

toque rem ob-

tinere: dice-

*bat vindicias
judex, ferebat*

*vindicias qui
rem obtine-*

*bat. Tarneb.
adv. l. 13, 27.*

*p A. Gel. noæ.
Attic. l. 20.
c. 10.*

inire viam, that is, go into the ground bringing back a Turf thereof, upon the which (as in manner shown) the *Prætor* gave Judgment at their return.

q De ind. lib.
L. R. C. 21.

r Sigon. de Jur.
L. R. C. 21.

For the better understanding of this that hath been spoken in the explanation of this Law, we must note, that the action termed *Vindicatio*, was twofold: either the suit for the possession of a thing, or the suit for the Lordship, or right owning thereof. The possession of any thing was recovered, either by a true and real violence, or by a seeming violence: this seeming violence was twofold, either it was *manus consertio*, which was shewn immediately before; or *moribus deductio*, that is, a customary leading the unlawful Possessor out of the ground, thereby to enter possession. *Vis simulata, altera à lege, altera emanavit à moribus*, said q Sigon. The first of these did arise from the Roman Law, the other from a custom among the Romans; the first of these is to be seen in *Tully* his Oration *pro Muræna*, the other *pro Cæcinnæ*. To these *Sigonius* addeth a third kind of seeming violence; which how justly he hath termed a violence, I shall leave to the different Judgment of the impartial Reader. The right of the Lordship, or owning any thing, was sued for in this manner: The Plaintiff did question with the Defendant thus; first, *An auctor esset?* that is, whether he had not covertly made away the possession of the thing thereby to frustrate the Action? Secondly, *An sponderet?* that is, whether he would put in a gage of Money into the Court, which he would forfeit if he were cast, which being done the Plaintiff did also upon the demand of the Defendant put in a gage of Money to be forfeited if he prevailed not in his suit. This gage of Money was termed *r sacramentum*; and in this sense, *Tully pro Milone* saith, *Injustis vindiciis & sacramentis alienos fundos petunt*, that is, they sue for other Mens grounds with unjust actions and gages of Money. Thirdly, *An satisfaret?* that is, whether he would put in surety, that during the trial in law, the ground or house called in question should not be impaired? The solemn

solemn form of words used in the first demand, is thus to be seen in *s Tully, quando in jure te conspicio, postulo anne* *f Cic. orat. pro*
fies auctor? If the Defendant held his peace, then was he *Mur. & pro*
 adjudged to pay all costs and damage; if he professed *Cæcin.*
 himself the present *Possessor*, then did the Plaintiff proceed in manner as he should for the possession thereof; if he denied it, then did the *Prætor* say unto the Plaintiff, *Quando negat, sacramento quarito*: Thereupon saith the Plaintiff to the Defendant, *Quando negas, te sacramento quinquagenario provoco: spondesne te soluturum quinquaginta asses, si auctor sis?* to whom the Defendant replied, *spondeo quinquaginta asses, si auctor sim: Tu vero spondesne idem, ni sim?* The Plaintiff answered, *Ego quoq; spondeo*. Now in this kind of stipulation, the Plaintiff was said *sponsione* & *sacramento provocare, sacramento rogare, querere, & stipulari*, that is, to challenge one to pawn a sum of Money for the trial of a Suit in Law. The Defendant was said, *contendere ex provocatione, contendere sacramento, & restipulari*, that is, to be sued in such manner. This Money was termed *sacramentum*,^t because when it was forfeited, ^{t Sig. de jud. l. 1. c. 21.} it was bestowed in *rebus sacris & divinis*. Touching the last interrogatory, I read no set form of words; but by the word *satisfactio* the intelligent Reader may conject, that it did somewhat symbolize with our English custom of putting in Bail. ^{u Sig. de jud. l. 1. c. 27.} This putting in of Bail was twofold. The one was *satisficare judicatum solvi*, to bind himself to pay what should be adjudged. The second was *satisficare rem ratam habere*, to become bound that he would stand to the verdict and judgment of the Court. The first of these Bonds was required to be performed by the Defendant: the second by the Plaintiff's Proctor or Attourney. But if the Action were an Action of Debt, then the Proctors alone became bound; the Plaintiff's Proctor, that he would stand to the judgment; the Defendants Protector, that the Debt adjudged should be paid.



LIB. IV.

*Rites and Customs observed by the
Romans in their Wars.*

De Militia.

TOuching the Art *Military* used among the *Romans*, it will not be impertinent to consider first how War was proclaimed, and Peace established by them; then to march on to the description of their Bands or Companies, where we may first observe the Office of their Chief Captain, and their subordinate Leaders, together with the several Wards, into which the universal Army was divided. After this we may descend unto the diversity of Punishments used toward Captives, and likewise towards refractorious and disobedient Souldiers: Adding as a *Corollary* or *Period* to our whole Discourse, the several Rewards, which the L. General with his Souldiers after the performance of certain Atchievements received.

C A P.

C A P. I.

De ritu, quem Romani observarunt vel fœdus ferientes vel bellum inferentes; & de triplici ratione conscribendi Milites.

WE may remember that it hath been already shewn, that both the proclaiming of War and Peace belonged unto a certain order of Roman Priests, called *Fœciales*, who by reason of their office, I Englished *Heralds at Arms*. The Rites and Ceremonies which they used, when they proclaimed Peace, were as followeth, *viz.* One of those Heraulds having his Commission from the State (after that both sides had agreed upon the Truce and League now to be concluded) took up a stone in his hand using this solemn form of words: * *Si recte & sine* * Polyb. vid. *dolo malo hoc fœdus atq; hoc iusjurandum facio, dii mihi* Rosin. antiq. *cuncta fœlicia præstent; sin alitur aut ago aut cogito* l. 10. c. 2. *(cateris omnibus salvis) in propriis patriis, in propriis legibus, in propriis laribus, in propriis templis, in propriis sepulchris solus ego peream, ut hic lapis è manibus decidet, and there-*
withall he cast the stone out of his hand: which manner of Oath was termed *Jurare Jovem lapidem*, or *per Jovem lapidem*, that is, as it hath been rendred by *Festus* to swear by *Jupiter*, holding a stone in ones hand: *b* Many say *b* Sig. de jure. Ita. l. 1. c. 1. that he did cast that stone at an Hog or Porker brought thither purposely, adding these words to the former; *Si prior populus Romanus defexit publico consilio, tum ille Diespiter populum Rom. sic ferito, ut ego hunc porcum hodie feriam*: alluding to which custom *Virgil* saith,

Et Cæsa jungebant fœdera porca.

The manner of denouncing War hath been already shewn: the act of service in War was termed *Mereri sub hoc vel illo duce*, that is, to serve in War under this or that Captain; and whatsoever Souldier was discharged of his service, as having served out his whole time, he was called *miles emeritus*, and by *c* Tully, such a one is said *c* Orat. pro Is. *stipendia* ge Manil.

d Serv. l. 2.
& 7. Æneid.
e Lipf. de mil.
lit. Rom. l. 1.
dial. 8.

f Vid. Lipf.
de milit. Rom.
l. 1. dial. 6.
g Lipf. de mil.
Rom. l. 1. dial. 4.

stipendia confecisse. d *Servius* hath observed that the Roman Souldiers were pressed three manner of ways: *per Sacramentum, Conjuratorem & Evocationem.* But e *Lipsius* censureth him for the amiss explanation of the last member. Therefore the indifferent Reader shall give me leave to borrow the terms from *Servius*, but the explanation of them partly from *Servius*, and partly from *Lipsius* in the places now quoted. Ordinarily Souldiers at their press, did each severally take their oath not to forsake their Captain or Country; and this oath was called *Sacramentum militare*, the words thereof are rendred by f *Polybius* thus; *Obtemperaturus sum, & facturus quicquid mandabitur ab imperatoribus, juxta vires*; and those were termed *Milites per sacramentum.* g This sort of Souldiers were upon appointed days, as it were of publick Muster, elected and chosen by the military *Tribunes* under the Consuls; the assignment of the day did chiefly belong unto the Consuls, at which time if any Souldier withdrew himself, and did not appear, he was severely punished, sometimes by Imprisonment, sometimes by confiscation of his Goods, sometimes by being sold for a bondslave. Upon extraordinary occasions (as when Tumults or Commotions did cause any suspicion of imminent danger) the chief leaders of the Souldiers did go unto the Capitol, and bring forth two Banners or Flags, the one red, called therefore *Vexillum Rosæum*, unto which the Footmen repaired; the other skie-coloured, called therefore *Caruleum*, which the Horsemen followed. The reason why the Horsemens banner was skie-coloured, is rendred thus, because it did most resemble the colour of the Sea, which colour they deemed most acceptable to *Neptune*, who was both the God of the Sea, and the first Author of Horses. Now because the sudden danger would not yeild so much time that they might severally be sworn, therefore did they take their Oath in common all together; only one chief Souldier throughout a whole legion took his Oath at large, and in expresse words, the

the 2^d rest followed in order one by one, saying, $\kappa\alpha\iota\delta\acute{\alpha}\pi\epsilon\rho$ i Lips. de mil.
 $\acute{\alpha}\ \omega\rho\acute{\alpha}\tau\omicron$, that is, that he swore the same as the first. If l. 1. dial.
 the Tribune distrusted his Souldiers fidelity, then would
 he swear them every one severally in terms at large, and
 thence were they called *Milites per conjurationem*; as
 likewise *Milites subitarii*, in respect of their sudden press:
 The third member may also be admitted, if we with
 * *Lipsius* understand it in its true sense; namely for * Lips. de mil.
 those Souldiers, who by their L. General were added unto Rom. l. 1.
 the Body of their army, he having authority to call out dial. 8.
 such other Souldiers, who for their long service were dis-
 charged from giving in their names at a muster: And
 these are generally by all Authors termed *Milites evocati*,
 and *Lipsius* deemed them all one with those whom *Ser-*
vius calleth *Milites per evocationem*. The Souldiers being
 thus pressed, if they purposed to make war upon their
 Enemies, then did the L. General summon them to pre-
 pare themselves by a sound of Trumpets: and this was
 termed *Classicum canere*, à *calando*, which signifieth to call.
 Which being done, a Scarlet Banner was hanged out of
 the L. General his Pavillion, from which Ceremony I
 think that that common adage did first arise, *Conferre*
signa & *Collatis signis pugnare*, to joyn battel. Immediate-
 ly upon this they did *Garrutum tollere*, make a great shout
 or noise with their voices, to the greater terror of their
 Enemies; and that the noise might be the greater, they
 did *Arma concutere*, rustle together with their armour,
 and clash their Swords. These four Ceremonies are to be
 seen more at large in k *Lipsius*. Unto which we may add k Lib. 4. de
 the fifth, observed by l *Fr. Sylvius*; namely, that at the mil. Rom. dial.
 removing of their Camp they did *conclamare vasa*; give 11, & 12.
 a great shout or cry, in token that the Souldiers should l In ep. viror.
 truss up their bag and baggage: and hence it is that illust. l. 4. ep. 1.
 m *Plantus* useth this phrase, *Colligatis vasis*, to signify as m Plaut. in
 much as *parate* or *expedite*. Now that they might be the Pseudulo.
 readier for the battle, they did gird (as I suppose) their
 Souldiers Coats close unto them; and a Souldier thus
 girt,

n Pigh. in sua
Præf. ad l. 1.
septim.
o Alex. Gen.
dier. l. 1. c. 20.

girt, was called *Cinctus*, that is (saith n Pighius) *Cinctus*, o *Inde discinctos ignavos, & militia minimè aptos putarunt, Præcinctos vero fortes & strenuos.* Hence also is that proverbial speech, *In præcinctu stare, or vivere*, to be in a readiness continually :

Non pudet ad morem discincti vivere Natta? Pers. Sat. 3.

C A P. 2.

De Legione, Auxiliis, & Legionis partibus.

p Plut. in Romulo.
q Rosin. ant.
l. 10. c. 4.

r Sig. de Jur.
Rom. l. 1. c. 15.

s Sig. ibid.

t Alex. Gen.
dier. l. 1. c. 20.

u Pancir. l. rer.
deperd. c. de
habit. & vest.
veter.

x Sig. de Jur.
Rom. l. 1. c. 15.

THE Roman Forces were in old time divided into two severall parts; namely, in *Legiones & Auxilia*, into Legions and Auxiliary Bands. The Auxiliary Bands were such as the neighbour and confederate Countries did send unto the Romans. The Legions were taken out of the body of the Romans, p *Legio, à deligendo dicta est*, from the choice and selecting of Souldiers. q *Romulus* is said to have been the first Author of these Legions, making every Legion to contain 3000 Footmen, and three hundred Horsemen, r one thousand Footmen, and one hundred Horsemen being taken out of each national Tribe. Afterward it was augmented by *Romulus* himself into four thousand Footmen, s whence it was called *Quadrata Legio*. And in process of time a Legion increased unto the number of six thousand : which number it seldom or never exceeded (as it appeareth by *Sigon.* in the place now quoted.) Now t none could be ordinarily registred for a Souldier until the seventeenth year of his age, u at which his first admission he was termed *Tyro*, a fresh-water Souldier : and hence figuratively *Tyrocini-um* hath not been translated only the first entrance into War, but also the initiation, or first entrance into any art or science whatsoever. After he had served many years, then was he termed *Veteranus*, an old beaten Souldier. x The Roman legion was divided in *pedites & equites*, there being commonly for every thousand Footmen an hundred Horsemen. *Pedites distributi erant in Cohortes; Cohortes*

Cohortes in Manipulos ; Manipuli in Centurias : Equites distributi erant in Turmas, Turmae in Decurias. The word *Cohors* doth signify that part of ground which is commonly inclosed before the gate of an house, y which from the same word we call a Court : and z *Varro* giveth this reason of the Metaphor. As in a Farm-house (saith he) many out-buildings joined together make one inclosure, so a *Cohors* consisteth of several Maniples joined together in one body. It is manifest (saith * *Alexan.*) that the Romans in antient time did very seldom, yea never (except in great necessity) inrol into their universal Army above four Legions: and in an ordinary Legion, which he termed *Legionem justam*, ten *Cohortes* : every *Cohors* containing three Maniples, every Manipule two Centuries, every Century an hundred Souldiers, whence they from *Contum* were called *Centuria*, a Century. b These Centuries were sometimes divided into lesser numbers, called *Centubernia* ; every *Contubernium* containing ten Souldiers besides their Captain, c which was called *Decanus*, & *Caput contubernii*. Where we must observe that *Contubernium* doth signify as well the pavilion, or lodging it self, as the Souldiers lodging therein, and it may be so called *quasi contubernium*, from *Taberna*, signifying any slight lodging made of Boards. Those that ruled over a thousand footmen, we may in English call *Serjeants major*, they called them *Tribuni militum*. Those that governed over the Centuries, were called by them *Centuriones*, by us in English *Centurions* ; and they had their inferior Officers under them which were called *Tergiductores*, or *Extremi agminis ductores*. d Their Office was to oversee and look unto those of the Camp which were sick, who commonly came behind the Army, *quasi extremum agmen*, & *tergum aciei*. The horsemen were divided into several troops called *Turma* ; every *Turma* containing thirty horsemen. Again, every *Turma* was subdivided into three less Companies, called *Decuria* ; every *Decuria* containing ten horsemen : whence their Captain was called *Decurio*, and

y Edmund's in his observat. upon Caesar's

Comment. l. 2.

c. 3.

z Varro lib. de re rustica.

* Alex. Gen. dier. l. 1.

b Varro vid.

Rosin. ant.

Rom. l. 10. c. 5.

c Rosin. ibid.

d Veget. vid.

Rosin. ant.

Rom. l. 10. c. 7.

e Lipf. de mil.
lit. Rom. l. 2.
dial. 10.

f Barth. Lo-
tom. in Phil.
orat. 14.

g Lipf. de mil.
Rom. l. 1. di. 3.

h Lipf. de mil.
Rom. lib. 4.
dial. 3.

the Captains over the greater Troops, namely over the feveral wings of their Horfemen were called *Equitum Præfecti*. Now the chief Governour over the univerfal Army was called commonly *Imperator*; we in English call him a L. General. His Lieutenant or L. Deputy was called *Legatus*, e who in old time was called, *Non tam ad imperandum, quam ad consulendum Imperatori*. This word *Imperator* in the Roman Histories hath a threefold acception; firſt it is taken for him, who by commiſſion from the State hath the managing of an Army, being the ſame that *Prætor* was in ancient time; and in this ſence it hath affinity with the office of our L. General. Secondly, for ſuch a L. General who by his prowefs having put f one thouſand of his Enemies to the Sword, was both by his Souldiers ſaluted, and by the Senate ſtyled by the name of *Imperator*. But if he had ſlain leſs than one thouſand, he was not thought worthy of this ſolemn Salutation by that name. Laſtly, it was taken for a Sovereign Prince, King, or Monarch, in which ſence it was the *Prænomen* of all the Roman Emperors, from *Julius Cæſar* forward. Now be-
cauſe the Souldiers in a Legion muſt of neceſſity differ much in Eſtate, Age and Experience, ſome being weal-
thier, elder, and of more experience than others; hence was it requiſite alſo, that there ſhould be a diſtinction of place in their Armies, according to the deſert and worth of each ſeveral Perſon. We are therefore likewiſe to un-
derſtand g that the Conſuls every year made a general muſter: at which time the military Tribunes choſe out the youngeſt and pooreſt of all the reſt, and called them by the name of *Velites*. Their place in regard of other Souldiers was baſe and diſhonourable, not only becauſe they fought a far off, and were lightly armed; but alſo becauſe they were commonly expoſed to the Enemies as forlorn hopes. According to h *Lipſius*, theſe *Velites* were commonly placed either *In Fronte Viis*, or *Cornibus*. 1. In the front of the Army. Secondly, in the diſtances or ſpaces between the ſeveral maniples. 3. *In Cornibus*, that

that is, in the wings of the battel ; not that the wings at any time consisted of those *Velites*, for that was the *Socii* and Auxiliary forces ; but either the spaces in the wings were filled up by those *Velites*, or else they might obtain a promiscuous place amongst those foreigners. Notwithstanding they did like scouts run to and fro casting out their darts (as occasion was offered) and so retire: whence when a Man doth leap from one thing to another in his talk, we say he doth *Agere velitatum*. Having chosen out a competent number of these Scouts, they proceeded to the choice of them which they called *Hastati*, that is, Pikemen : forasmuch as they fought with a kind of javelin, which the Romans called *Hasta*. These Pikemen fought in the first part, or fore-front of the main army. The third choice which they made was of the strongest and highest bodied Men, who for the prime of their age were called *Principes* : and hence was the second place or ward in the main army called *Principia*, according to *i Thraso* his speech, *Ego ero post i* Teren. Eun. *Principia*, that is, I will follow the *Principes* ; thereby choosing to himself the best and safest place. The last sort of Souldiers, which stood in the third place or ward, were called *Triarii*. They were of all the most approved, and the very last help or refuge, so that if they failed, all was lost : and hence ariseth that form of speech, *Ad Triarios ventum est*, *k* whereby we signify that a thing is come to the last *k* Alex. Gen. push. As I suppose, the weapon therewith these *Triarii* fought, was a dart with Iron fastned at the end of it, called in Latine *Pilum*. The reasons of this my conjecture are these, 1. Because the first Century of these *Triarii* was called *Primum pilum*, and their Centurion *Primopilus*, and *Primipulus*, and *Primus Centurio*, because he was the chief Centurion in a whole Legion, as having the charge of the chief Banner called the *Eagle* ; whence *Aquila* is sometimes used to signify *Primopilatum*, the office and place of the *Primopilus*. The second Century was called *Secundum pilum*, and their Centurion *Secundipilus*, &c. Secondly, they called the *Principes*, which marched in the

Act. 4. Scen. 7.

dier. l. 5. c. 15.

Lipf. de mil. Rom. l. 2. dial. 1.

m Pancir. in
notit. orient.
& occident.
imper. c. 31.

n Lips. de mil.
Rom. l. 4.
dial. 4.

o Lips. ibid.

p Festus vid.
Pancir. in not.
orient. & oc-
cident. imper.
cap. 32.

battel immediately before these *Triarii*, *Antepilanos*: which argueth that those souldiers which followed next should be the *Milites pilanos*, and by consequence their weapon should be that kind of dart which they called *pilum*. Their manner of embattelling was divers. Sometime they would make a winged Army, so that the main body thereof should be in the middle, and on each side a lesser company: the main body we in english call the *Vant-guard*, and the two lesser companies, we call *Wings*; as likewise in Latine they call them *Alas aciei, & dextrum vel sinistrum eorum*. m *Pancir*ol. calleth them *Vexillationes*, because there fought no more in either wing than belonged to one banner, called in Latin *Vexillum*. The governors of these wings he calls *Alarum prefectos*. Sometimes they embattelled, so that the forefront of the army being small, it was enlarged bigger and bigger backward, in manner of a triangle: By n *Lipsius* it is demonstrated unto us under the form of the Greek letter Δ . He in the same place calleth it *caput porcinum, quia velut fodit, & ruit invadendo*. Commonly it is called, *Cuneus militum*, the Metaphor being borrowed not only from the resemblance it had with a wedg, but that also from the use of a wedg: for they never embattelled in that form, unless it was to break through their enemies, the piercing angle being thick compacted with tragets. Sometimes they did in a quiet contrary manner, enlarge their army in the fore-front, making it end in an angle; and o this they called *forefex*, and *forceps militum*. Sometimes their form of embattelling was circular, and then it was called *Orbis vel globus militum*. The Banner or flag was properly cal'd *Vexillum*, being a diminutive of *Velum*. It was also called p *Bandum*: whence we do at this day call so many souldiers, as do fight *sub eodem bando*, a band of Souldiers: as *Romulus* called those that fought *sub eodem manipulo fœni* (an handful of hay being used at that time instead of a flag) *Manipulum militum*: Ovid.

*Percita suspensos portabat longa maniplos,
Unde manipularis nomina miles habet.*

* *Suidas*

* *Suidas* is pain, βάλλον καλῶσι Ῥωμαῖοι τὸ σημεῖον τὸ ἐν πολέμῳ, that is, the *Romans* called their military ensign a *Band*: hence others have used βάλλον φέρειν to signifie as much as *Signifer*, an Antient-bearer. * *Suid.in voce* *βινδον*.

C A P. 3.

De oppugnatione urbis, & iis quæ ad oppugnationem requiruntur.

IF the siege of a Town seemed difficult and hard to compass, then did the *Romans* use certain means of policy, for the better effecting thereof. They environed the town with a broad and deep ditch, adding thereunto a Rampire, fortified with many Castles and fortresses; whereby they both keep the town from any forraign succour, and withall secured themselves from sallies, and other stratagemes. This Rampire did extend it self towards the walls of the City, so that by making (as it were) a great hill, they might over-top the City, and fight with the greater advantage. Now that this great heap of earth might become firm, and well able to support the buildings to erected upon it, they did cast in much timber, and stones amongst the earth; and this heap of earth, stones, & timber whence it was reared, was properly called *Agger*, whence cometh both the latine verb *Exaggerare*, and the English to *exaggerate*, that is, to amplifie or encrease a matter. The stakes, posts, and trees, which were rammed in about this bulwork, or rampire, to uphold the earth, were somtimes called *q Cervi*, because of their forked and sharp tops, but more properly *r Valli* and *Valla*. *q* *Lips. Pol. l. 2. dial. 2.* The distance or space between each stake, was called *In-tervallum*: though now *Intervallum* doth signifie not only such a distance, but any distance either of space or time, as it appeareth by that of *Tully*, *f Intervallo locorum*, & *f Cic. ep. fam. temporum disjuncti*. Sometimes *Vallus* doth signifie a pole or stake, whereunto vines are tied, according to that received adage which we use when a special friend forsaketh one, *Vallus vitem decepit*. From the first signification it

it is, that *Vallum* doth often signify the inclosure, or hedging in of trees and stakes, wherewith the bulwark is upheld; alluding whereunto *A. Gellius* translateth *ἐν ᾧ* *Attic.* l. 1. 15. *ὀδόντων Vallum dentium*. The means of their defence, whilst they were making this their rampire, was a certain engine or ordnance of War *u* made of planks and hurdles running upon Wheels, under which they might rest secure from all stones and darts cast from the walls of the City: it was called *Vinea*. A second engine was *Musculus*. The matter whereof it was made I have not read, but the use of it was, that under it the Souldiers might approach unto the walls of the City, and undermine them. Thus much *x* *Lipsius* seemeth to infer, when he rendreth the reason of the name: *Musculus ideo dictus, quia instar ejus animalculi fuderunt sub eo terram*. A third means of their defence was *Militaris testudo*. This word *testudo* in the art Military, had a double acception, both being borrowed from the resemblance of the Tortoise-shell, which is the true and genuine signification of this word. In the first acception *Testudo* *y* doth signify a warlike engine or fence made with boards covered over with raw hides, which served against fire and stones cast at the Souldiers; under this they might safely assail the walls. *z* In the second acception it signified a Target-fence, which was a close holding together of Targets over head like a vault or roof, wherewith the Footmen did defend themselves from the thick shot of arrows, or slinging of stones. Their rampire or countermure being finished, they used certain great timber Towers made upon wheels to run to and fro, which they called *Terres ambulatoria*, moveable Turrets. These Towers had many stories one over the other, *a* wherein they carried ladders and casting-bridges, thereby to scale the walls. The engines hitherto have been defensive, such wherewith the *Romans* defended themselves in their siege: others there were offensive, wherewith they did assail the City; and of those the chief were *Balista* sive *Catapulta*, *Scorpius* sive *Onager*, *Aries*,

r A. Gel. noct.
Attic. l. 1. 15.

u Rosin. ant.
Rom. l. 10.

x Lips. Polycr.
l. 1. dial. 9.

y Rosin. ant. R.
l. 10. c. 16.

z Stad. in Flo.
l. 4. c. 10.

a Rosin. ant.
Rom. l. 10.
c. 10.

& *Mulleoli*. The first of these Engines, as it was called *Balista* ἀπὸ τῆς βάλλειν, from darting or casting forth any thing *b* so it was in old time called *Catapulta*, ἀπὸ τῆς πέντης *b* Lips. Pol. 1. 2. dial. 2. which signifieth a shaft or dart; tho it cannot be denied, but that *Pelta* doth also signify a kind of shield made in the form of an half-moon, according to that of *Virg. Æn. l. 1.*

*Ducit Amazonidum lunatis agmina peltis,
Penthesilea furens* —————

The form thereof followeth, translated word for word out of *c Marcellinus*. [Between two planks there is set in *c* Am. Marc. firm and fast joyned a strong and big Iron, reaching *l. 3. c. 3.* out in length after the manner of a good great Rule; out of the round body whereof, which is artificially wrought, there lieth forth farther out a four-square beam, made hollow with a direct passage in the manner of a narrow trough, tied fast with many cords of sinews twisted one within the other, and thereunto are joyned two wooden skrews: near unto one of which standeth the cunning Balister, and subtilly putteth into the hollow passage of the beam a wooden shaft, with a big head glewed fast to it. This done on both sides, two lusty young Men do bend the Engine by turning about certain wheels: When the top of the head is drawn to the uttermost end of the cords, the shaft being carried forth of the Balista, by the inward force thereof, flieth out of sight.] That the reader may receive the more light in the understanding of this obscure description, I have added the very words of *Marcellinus*. [*Ferrum inter axiculos duos firmum compaginatur & vastum, in modum regule majoris extensum; cujus ex volumine teretis, quod in medio ars polita componit, quadratus eminet stylus extensus recto canalis angusti meatu cavatus, & hec multiplici chorda nervorum tortilium illigatus, eique cochlea duo lignea conjunguntur aptissime, quarum prope unam ad-sistit artifex contemplabilis, & subtiliter adponit in temonis cavamine sagittam ligneam, spiculo majore conglutinatam, hocque facto hinc inde validi juvenes versant agiliter rotabilem flexum. Quum ad extremitatem nervorum acumen vene-*

rit.

* Machinæ
Serratorix.

* Ab hac medietate testimonium.] Here we must note, that this signification of testes is borrowed from the Anatomists, which do call certain eminent parts behind *φαλλιδος* testes. Vid. Fuchf. instit. med. l. 1. Sec. 5.

rit summum, percita interna pulsu à balista ex oculis evolat. In respect of its use we may English it a *Cross-bow*: but it was much bigger, and of a different form. The *Scorpion*, which now they call *Onager*, is described by *Marcellinus* in the same place thus. Two Oken or Elm-beams were hewn out, and somewhat bended, so that they seemed to bunch out in backs; and these in manner of a * saw engine are tied fast together, being bored through with wide holes, through which (by the means of those holes) strong cords are tied, keeping in the whole frame that it start not assunder: * From between those bunches another wooden beam reaching forth overthwart, and in manner of a wain-beam erected up, is tied with such devices unto certain ropes, that it may be pulled up higher or let down lower at ones pleasure, and at the top thereof certain iron hooks are fastned, from which hooks there hanged down a certain Sling either of Iron or Tow; under which erected beam, there lieth a great piece of hair-cloath, full of small chaff, tied fast with cords, and placed upon a bank of turfs, or a heap of bricks. When therefore it cometh to the point of skirmish, a round stone being put into the Sling, four young Men on one side loosning the beams, into which the ropes are incorporated, do draw back the erected beam unto the hook. Thus at length the master of the engine standing in some high place giving a mighty stroak with a hammer (and as I suppose upon the cord, whereunto the erected beam was fastned with his hook) setteth open the rails that contain the whole work; inso much that this erected beam being now at liberty with that quick stroak, and hitting against the soft hair-cloath, it hurleth out the stone, that will batter whatsoever is in the way. And it is called *Tormentum*, quod ex eo omnis explicatio torquebatur. It is also called *Scorpio*, because when the long beam or pillar is erected, it hath a sharp top, in manner of a Sling. The modern time hath imposed upon it the name of *Onager*, that is, a wild Ass, because that wild Asses, when they

they are couſed by hunters, ſling back ſtones with their heels aſar off, ſo that oftentimes they pierce the breſts of them that follow them. The Latine word is made from the Greek ὄνκος, i. e. *Aſinus*, & ἄγρος *rus vel ager*. Now if any aſk me, why that ſackcloth or aſhes was interpoſed, the reaſon is rendred by *Marcellinus*, in two lines, which I purpoſely did not tranſlate in their place, becauſe I would continue the ſenſe without ſuch a long *parentheſis*. The reaſon is there delivered thus; becauſe the violence and force of the erected Beam recoiling, after it had been by the ſtroak diſcharged, was ſuch, that it would ſhake in pieces the ſtrongeſt walls, except there were ſome ſoft thing interpoſed, whereby the forcible ſtrength of the recoil might be by degrees ſlaked. The *Aries*, or Ram, is deſcribed alſo by *Marcellinus* in the ſame place. [The Ram was a great tree or beam, like unto a maſt of a ſhip, having a piece of iron, in manner of a rams head, faſtened at the end thereof, wherewith they did demolish and batter down the walls of a City. It was hung unto a beam, which lay acroſs over a couple of pillars, and hanging thus equally ballanced, it was by force of Men pulled backward, and then recoiled upon the walls.] The Rams which *Titus* uſed at the ſiege of *Hieruſalem*, ran upon wheels: which kind of Rams are deſcribed by *Joſephus*. There be ſaid he, other manner of engines, as an iron Ram upon four wheels bound with iron, and faſtned with iron nails, to this they make four feet anſwerable to the bigneſs of the beam, and every beam hath his ſeveral wheel, and when they will batter the wall, certain Men firſt pulling it back, they recoil it by the help of four wooden leavers put in the hinder part thereof for that purpoſe. The head of this Ram hath no horns, but is blunt, made of the ſtrongeſt kind of iron, with a wonderful thick neck. They have alſo of both ſides of the Ram a pentice of wood for the ſafeguard of thoſe that recoil it. *Joſephus Ben Gorion de bello Judaico*. In lieu of theſe Rams another engine was found out, call'd *Helepolis*, ab inuſitato

ἐλω, that is, *capio*, and πόλις, that is, *civitas* : The form of it is to be seen also in *Marcel. ibid.* [There was (saith he) a *Testudo*, or vaulted frame made, strengthened with very long pieces of timber : it was covered over with Ox-hides, and green wicker hurdles, the upper part or convex surface thereof was over-laid with mud, to the end that it might keep off the fall of fire, and casting of weapons. Now there were fastned in the front of it certain *Cuspides trisulca*, that is, iron pikes with three edges, very massie, in manner of the thunder-bolts, which Painters and Poets exhibit unto us : this great engine the Soldiers ruling within with divers wheels and ropes, with main force they thrust it against the walls.] [*Malleoli* (saith the same *Marcellinus*) were certain darts, fashioned on this manner ; there was an arrow, made of a cane, betwixt the head and the neck whereof was fastened an iron full of clefts ; which arrow, like unto a Womans distaff, on which linnen is spinned, was finely made hollow within the belly, yet open in many places : In the belly it received fire, with fuel to feed upon ; and thus being gently discharged out of a weak bow (for with an overstrong shooting the fire was extinguished) if it took fast hold on any place, it burned the same ; and water being cast thereon, the fire increased, neither was there any means to quench it, but by casting dust on it.] Now if they could not prevail by engines call'd *Machine*, then did they make certain passages under ground, which they called *Cuniculi*, from *Cuniculus*, signifying a cony-berry ; insomuch that these two phrases are opposite, *Machinis*, and *Cuniculis oppugnare*, as it appeareth by that of *d Plutarch*, *Cæsar non jam cuniculis sed machinis tollit rempublicam*, that is, He doth not now covertly, but with open violence assault the Common-weal.

*d Plutarch. in
vir. C. Cæs.*

C A P. 4.

De Pœnis in hostes devictos.

ALbeit, after the victory, the Romans inflicted divers degrees of punishment, according to the malice found in an enemy, yet were they alwaies compassionate, and (as Histories testifie) more exorable than any other Nation. The punishments which we find them to have used towards a conquered Nation are these: Either they punished them by death, or sold them *sub corona*, or dismissed them *sub jugum*, or merced them in taking away their territories; or made them tributary States. ^{e A. Gel. 7. c. 4.} An enemy was said to be sold *sub corona*, when he being plac'd in the market-place, a crown was put upon his head in token of such a sale: or therefore certain captives were said to be sold *sub corona*, because at such times they were environed about with souldiers, to keep them together, and this circle of souldiers, as likewise all other companies, is called *Corona*. When they dismissed any *sub jugum*, ^{f Stad. in Flor. l. 1. c. 12.} if they erected two Spears, with a third lying cross, in manner of a gallows: then they caused them being disarmed, and their belts taken away, to pass under in token of bondage. When their territories were taken from them, they were commonly conferred upon old beaten souldiers, in way of remuneration for their faithful service. This transplantation was termed *Colonia deductio*; and the place ever after *Romana colonia*, that is, a Roman Colony: at which times they chose out every tenth Man, *viz.* such as were able, and of best sufficiency, to make and establish a publick Council, ^{g Sig. de Jur. Ital. l. 4. c. 2.} whom they named *Decuriones*. Whence we may observe, that *Decurio* is not alwayes taken for a Captain over ten horsemen, but sometimes it is used to signifie an *Alderman*, a chief Burgeess in a Roman Colony. These Colonies were of two sorts, some called *Colonia Latine*; others *Italica*. The Latine Colonies had *Jus civitatis suffragii*, & *Magistratus capien-*
L 1 2 di

di, si in sua Colonia magistratum gessissent. Italicis autem, Jus civitatis & suffragii nullum erat, immunes tamen erant, nec tributum aut stipendium pendebant, ut provincie solebant. Turneb. advers. l. 1. c. 11. Divers times the Romans would be content after the conquest to grant to their enemies a peaceable injoying of their lands and possessions, conditionally, that they would yeild all faithful allegiance unto the L. Deputy, whosoever the Senate of Rome should place over them. The L. Deputy was either stiled by the name of a *Proprætor*, a *Proconsul*, or a *Præfectus*. Those places where the two first sorts of Governours did rule, were termed *Provincie*, the other from the Governor was termed *Præfectura*. Where we must observe that this word *Provincia* hath a threefold acception. First, it is taken for a Country, which by the force and power of arms is subdued to the *Roman Empire*, and governed by some *Roman Deputy* sent from the *Senate*; and this is the proper and primitive signification thereof, it being so called, *h Quod populus Rom. eam provicit, id est, antevicit*. Secondly, it is taken for any region or Country where the L. Gener. or chief Captain over a *Roman army* doth manage War against any Nation by commission from the *Senate*. Lastly, it signifieth any publick function, or administration of office, yea any private duty, charge, or task, either undertaken or imposed; according to that of *i Terence*, *Provinciam cepisti duram*, that is, thou hast undertaken an hard task. Now the tribute to be paid, was either certain or uncertain. The certain was properly called *Tributum vel Stipendium*, and those who paid it were termed *Tributarii sive Stipendiarii*; and this Tribute was of two sorts, either ordinary, such as was required from every house yearly, even in the time of peace; or extraordinary, such as was levied by a law, or decree of the *Senate* towards unexpected charges. The uncertain tribute *k* properly called *Vestigal*, was either impost-mony, such as was collected in haven-towns for the transportation of Merchants wares, and that was called from *Portus*,

h Pigh. lib.
Tyranniff.

i Terent. in
Phor.

k Sig. de Jud.
Rom. l. 1. c. 16.

Portus, *Portorium*, or from *l Porta Portarium*, and the receivers thereof *Portitores*. The wares after the impost-mony had been paid, were sealed by the *Publicans*, with a certain kind of tempered chalk: and this is that which *Cicero* understandeth by *Asiatica Creta*, *orat. pro Flacco*: or tythe corn, namely the tenth part of their gain; and that was call'd from *Decem*, *Decuma*, and the receivers thereof *Decumani*, though *Decumanus* when it is an adjective, signifieth as much as *Maximus*, according to that of *Ovid*, *lib. de Trist.*

Qui venit hic fluctus, fluctus supereminet omnes;
Posterior nono est, undecimoque prior.

The reason of this signification is *m* supposed to be, because in *Arithmetick*, amongst simple numbers the tenth is the greatest: or lastly, that Mony which was paid by certain herdsmen for pasturing their cattel in the *Roman* fields and forests: This kind of tribute was called *Scriptura*, and the pastures *Agri Scripturarii*; because (as *n Festus* saith) the Bailiff or receiver of this Mony, called *Pecuarinus*, did *Scribendo conficere rationes*, that is, keep his account by writing: here we must note, first, that all these kinds of Tributes were not only required in Provinces, or Countries subdu'd, but throughout *Italy*, even in *Rome* it self. Secondly, though each collector of these Tributes was distinguished by a peculiar name; yet by a general name they were all called *o Publicani*, in as much as they did take to rent these publick tributes. The chief of them which entred into bond, as the principal takers or farmers of these tributes, *Tully* calleth *Mancipes*. The others, which were entered into the same bond as sureties, were termed *Prædes*. Many times the *Romans* did bestow the freedom of their City upon foreign Countries, and the degrees of freedom were proportioned accordingly as the Countries were. Some they honoured with the name of *Roman* Citizens, but excluded them from the right of suffraging, leaving them also to be governed by their own Laws and Magistrates.

This

l Stadius in
Flor. l. i. c. 13.

m Fr. Sylv. in
viror. illust.
ep. 2. l. 1.

n Sig. de Juræ
Rom. l. c. 4.

o Cic. de A-
rusp. respons.
& alias sæpe.

This state they called a *Municipal* state, in Latine *Municipium*, because they were *Muneris hujus honorarii participes*. p A. Gel. noct. cipes. p By *Munus honorarium* in this place, is understood Attic. l. 16. c. 13 nothing but the title of a *Roman* Citizen, whereby they were priviledged to fight in a *Legion* as free Denizens, not in an *Auxiliary* Band, as the associates. Now the first that ever obtained this *Municipal* state, were the *Cerites*, who for preserving the holy things of *Rome* in the time of the War against the *Gauls*, were rewarded with the freedom of the City, but without power of suffraging.

q A. Gel. ib. q From whence it is that those tables wherein the *Censors* inrolled such as were by them deprived of their voices, were called *Cerites tabule*. *Horace* calleth such a table, *Ceritem ceram*, for the reason shewn before. But we must withall observe, that some *Municipal* towns have either by desert or instant suit obtained the liberty of suffraging also, which occasioneth that received distinction, that there was *Municipium sine suffragio*, & *municipium cum suffragio*. Other Countries which could not be admitted into the freedom of the City, have obtained, and that not without special and deserved respects, to be associates and confederates unto the state of *Rome*. The Inhabitants of such Countries were sometimes called *Socii*, sometimes *Amici*, sometimes *Latini nominis socii*, &c. The King or Prince of a such a country did style himself, *Amicus & Socius Senat. & Pop. Rom.* Here we must observe a difference between *Pactio* and *Fædus*, both signifying a kind of League. That truce which in time of war is concluded upon, and accepted of both sides for a certain r limited space of time is properly called *Pactio*; we commonly call it *Induciæ*, and it differed from *Fædus*: f First, because that *Fædus* is a perpetual truce or league. Secondly, because it was necessary that one of those *Heralds* at arms called *Fæciales*, should by a solemn proclamation confirm this League called *Fædus*, neither of which conditions was absolutely requisite in their truce termed *Pactio*.

r Sig. de jur.
Ital. l. 1. c. 1.

f Sigon. ib.

C A P. 5.

Multa militares, quibus milites Romani ob delicta afficiebantur.

Touching the punishments that the Roman L. General used towards his own souldiers when they were faulty, they were commonly proportioned unto the fault committed: sometimes they were easie, of which sort were also those punishments which did only brand the souldiers with disgrace: othertimes they were heavier, such as did hurt and afflict the body. To the first sort belonged these: First, *Ignominiosa dimissio*, i.e. a shameful discharging of a souldier, when he is with disgrace removed from the army. Secondly, *Fraudatio stipendii*, i. e. a stopping of their pay: and such souldiers which suffered that kind of mulct, were said to be *ere diruti*, & because *Es illud diruebatur* t Rosin. ant. l. 10. c. 25. *in fiscum, non in militis sacculum*. Thirdly, *Censio hastaria*, whereby the souldier was enjoyned to resign and give up his spear: for as those which had atchieved any noble act, were for their greater honour *Hasta pura donati*, so others for their greater disgrace were forced to resign up their spear. Fourthly, the whold *Cohort* which had lost their banners, were compelled to eat nothing but barley bread, being deprived of their allowance in wheat: and every Centurion in that *Cohort* had his souldiers belt or girdle taken from him, which was no less disgrace among them, than it is now amongst us, that a Knight of our order of the Garter, should be deprived of his Garter. Fifthly, for petty faults they made them stand bare footed before the L. Gen. his pavilion with long poles of ten foot length in their hands, and sometimes in the sight of the other souldiers to walk up and down with turfs on their necks. In the last of these they seemed to imitate their City-discipline, whereby malefactors were enjoyn'd to take a certain beam, resembling a fork, upon their shoulder, and so to carry it round about the town: it hath some affinity with our carting of queans here in *England*; in the first we have

no

† Alex. Gen.
dier. l. 2. c. 13.

κ Trib. milit.

α Cic. orat.
Phil. 3.

no custom that doth more symbolize, than the standing in a white sheet in the open view of a congregation. The last of their lesser punishments, was the opening of a vein, or letting them blood in one of their arms : † which kind of punishment was used towards those alone, which (as they conceited, through the abundance of their hot blood) were too adventurous and bold. The heavier kinds of punishment were these : 1. *Virgis, vel fuste cedi*, to be beaten with rods ; or with staves and cudgels. None were ordinarily beaten with cudgels, but those who had not discharged their office, in the sending about that table, called *Tessera*, wherein the watch-word was written ; or that had forsaken their place, where they were appointed to keep watch ; or those who had stolen any thing from out the camp ; or born false witness against their fellows, or abused their bodies by women : or lastly, that had been punished thrice for the same fault : those which were in this manner cudgelled, were often killed in the place, but if they escaped alive, they went to live in perpetual exilement. The ceremony used in this kind of cudgelling was, that the κ Knight Martial should lightly touch the party to be punished with a club, which being done, all the souldiers did beat him with staves and cudgels, whence we may say of one that deserveth a good cudgelling in α Tully his phrase, *Fustnarium meretur*. Polyb. calleth it, ζυλονοπία. Vid. Lips. de milit. Rom. lib. 5. dial. 18. if a Roman souldier had broken his rank by going out of order, then *Virgis cedebantur*, that is, he was scourged with rods. Sometimes the Knight Martial upon just occasion would cause them to be sold for bond-slaves, to be beheaded, to be hang'd. All these punishments were personal or particular ; there remaineth one which was general, namely when the fault was general, as in their uproars, conspiracies, &c. Upon such occasions the souldiers were called together, and every tenth Man upon whom the lot fell, was punished with that kind of cudgelling above spoken of ; all the others escaped either

there without punishment, or with very little. The punishment it self was termed *Decimatio Legionis*, and the reason of this kind of punishment is rendred by y Tully, y Cic. pro ut metus, viz. *ad omnes, poena ad paucos perveniret*. Some- Cluent. times such was the clemency of the L. General, that he would punish only the twentieth, nay the hundredth Man, and then it was called *vicefimatio, vel centesimatio, legionis*.

C A P. 6.

De donis militaribus ob rem fortiter gestam.

Concerning the rewards which were bestowed in war, some were by the Senate conferred upon the L. General : others were by the L. Gen. conferred upon his souldiers. Those honours which the L. General received were three, First, *Nomen Imperatoris*, of which before. Secondly, *Supplicatio*, that is, a solemn procession continued for many days together, sometimes more, sometimes less : all which dayes the Roman people did observe as holy dayes, offering up daily prayers and Sacrifices to the Gods in the behalf of their L. Gen. The custom being that after some notable victory the souldiers having saluted their chief Captain (whom I call their L. Gen.) by the name of *Imperator*, then would he send letters unto the Senate dight with Laurel, wherein he required both that name to be confirmed, and approved by them, as likewise that they would *Decernere Supplicationes*, that is, appoint such solemn supplications. Thirdly, they honoured him also at his coming home with a triumph : *Triumphus vel major, vel minor erat*, saith *Alexander*. The lesser kind of triumph was properly called *Ovatio* & *ab Ove*, from a sheep, which in the time of his triumph, was led before him, and afterward sacrificed by him, as also in the greater triumph (called properly *Triumphus*) the L. Gen. sacrificed a Bull : it differeth from the greater triumph, first, in the acclamation ; for in the lesser triumph the souldiers following did as it were redouble this letter O, and some are of opinion that it was there-

z Salmuth. in
Parcir. l. re-
rum deperd.
c. de. triumph.

M m

fore

fore called *Ovatio*. In the greater triumph the souldiers followed, crying, *Io triumphe, Io triumphe*: an example
 * Ode 2. l. 4. whereof may be seen in * *Horace*, where he describeth the triumph of *Bacchus*, the first Author of this greater
 b Samalch. in triumph; from whose b name also divers Authors do
 Pancir. l. re- derive this word *Triumphus*, he being in Greek called
 rum deperd. *Σπίαμψ*, which by a little change is made *Triumphus*. Se-
 cap. de tri- condly, they differed, because in the greater Triumph
 umph. the L. Gen. did wear a garment of State, called by some
 c Alex. Gen. *Trabea*, c by others *Triumphalis*, *Picta vel Aurata vestis*;
 dier. l. 6. c. 17. likewise a garland of Laurel, riding in a chariot, the *Se-
 nators* themselves, with the best of the *Romans*, meeting
 him, his souldiers with their coronets, their chains, and
 other rewards, following after: but in the lesser triumph
 the L. General did wear a plain Purple Gown, without
 any Gold imbrodering, and a garland of mirtletree d com-
 monly going on foot, sometimes permitted to ride on a
 horse; the Gentlemen and commonalty of *Rome* alone
 without the *Senators* did meet him. Moreover, for a
 perpetual memory of this their triumph, in some pub-
 lick place certain trophies were erected. e *Tropheum*
 e Alex. Gen. *monumentum dixere, nunc marmoreum, modo aeneum, cum*
 dier. l. 1. c. 2. *inscriptione & titulis ævo prepetuo duraturis.* f *Dictum est*
 f Serv. AEn. 1. *αὐτὸ τῷ τρέπεσθαι, idest à conversione, from making the ene-*
 10. *mies to retire and turn back.* Sometimes there were
 statues, columns, and arches built, in token of triumph.
 These arches, though commonly they were known by
 the name of *Arcus triumphales*, yet sometimes they are
 called g *Fornices*, whence it is that *Tully* calleth *Fabians*
 g Fr. Sylv. in triumphal arch *Fabianum fornicem*. If it so hapned, that
 orat. Cic. pro the *Roman* General himself, personally, did take away
 Cn. Plancio. any spoils from the chief Captain of the enemies, then
 did he hang them up in a Temple consecrated to *Jupiter*
 h Alex. gen. *Feretrius*; who was so called, because h as the *Romans*
 dier. l. 1. c. 14. conceited, without the special assistance of *Jupiter*, *Dux*
ducem ferire non poterat; these spoils had the name of
Optima spolia, that is, Royal spoils. The reward bestow-
 ed

ed upon the souldiers were divers : either places of offices, as the place of a Centurion, of a *Præfectus*, a *Decurio*, &c. or their pay was increased, the spoils distributed amongst them : or lastly, they recieved certain gifts termed *Dona militaria*. In ancient times those souldiers which had best deserved, received a certain measure of corn, called by them *Adorea*, ⁱ and hence it is that *Adorea* ^{i Alex. Gen. dier. l. c. 18.} is now used to signifie such laud and praise as is due unto a souldier. But after ages, for the better encouraging of the souldiers have found out more honourable rewards, of which ^k these were the chiefest ; *Armilla*, that is, a bracelet for the hand-wrist ; *Torquis*, a chain to wear about their necks ; *Phalera*, horse trappings, *Hasta pura*, that is, a spear, having no iron at the end of it (it is sometimes called ^l *Hasta donatica*, and *Hasta graminea*.) Lastly, *Corona*, ^{l Rosin. ant. l. 10. c. 17.} crowns, of which *Aul. Gel. l. 5. c. 6.* observeth these to have been the chief : 1. *Corona triumphalis*, which in old time was made of Laurel, but afterwards of Gold, and thence it was called *Corona aurea* : it was sent by the Senate unto the L. General, in honour of his triumph. Secondly, *Corona obsidionalis*, which was given by the souldiers unto the General when they were freed from a siege ; it was made of grasse growing in that place where they were besieged, whence it had the name also of *Corona graminea*. Now the reason why they made this Crown of grasse growing in the place where they were besieged, was thereby to yield up their right in that place unto their Captain, for by that ceremony, as ^m *Pliny* observeth, they did *Terra & ipsa altrice humo & humatione etiam* ^{m Plin. l. 22. c. 4.} *cedere*. And hence it is, that in races, and the like masteries, he that was overcome, did gather some of the grasse of that place, and gave it unto the Conqueror, as a token that he did acknowledge himself conquered ; ⁿ this is the reason of that Adage, *Herbam dare*, that is, to yield the victory. Thirdly, *Corona civica*, which was bestowed only upon him which had saved a Citizens life, ^o though in process of time it was also bestowed upon the L. Gen. if he spared a Roman Citizen when he had power to kill him : ^{z Salmuch in Pancir. l. rerum deperd. c. de coronis. o Pigh. l. Tyrannif.}

him : It was commonly made of Oak ; whence it was called *Corona quercea*. And this I take to be the reason why in *Ovids* time the Emperor had always standing before his gates an Oak-tree in the midst of two Laurels, as an Emblem denoting two worthy vertues required in all Emperors and Princes : first, such whereby the enemy might be conquered : secondly, such whereby Citizens might be saved. Unto this *Ovid* seemeth to allude, speaking of the Laurel Tree,

p *Ovid. Met. l.*
Fab. 9.

p *Postibus Augustis eadem fidissima custos*
Ante fores stabis, mediamq; tuebere quercum.

q *Dion. Hal.*
lib. 10.

Fourthly, *Corona Muralis*. q He only was honoured with this, which did first scale the walls, and enter first into the enemies City : and hence this crown was put upon the circlet, or top, like unto the battlements. Fifthly, *Corona Castrensis*. This the L. Gen. bestowed on him which first entered into the enemies tents : it did bear in it the resemblance of a bulwark, or at least of the mound where-with the bulwark was strengthened : which mound was called in Latine *Vallum*, and thence the crown it self was often called *Vallaris corona*. Sixthly, *Corona navalis*, with which he was honoured, which first entered into the enemies ship in a battel upon the Sea : it was pourtrayed with many ship-beaks, called in Latin *r Rostra*, whence the crown it self was often called *Corona Rostrata*. That *Roman Hercules Siccus Dentatus* obtained almost all those several rewards, and that each many times. Lastly, *Corona ovalis*, it was made of Mirtle tree, the L. General used it in the lesser kind of triumphs, called *Ovationes*, from whence the Coronet it self was named *Ovalis*. It was then bestowed, when the Herald had committed some error in denouncing war ; or when the enemies conquered were of mean rank and place, as Servants, or Pirats ; or else if the victory were gotten without bloodshed, or great hazard, the enemies yielding without resistance. *In quibus impulveris & incruentis victoriis, aptam esse Veneris frondem crediderunt, quod non Martius, sed quasi Veneris quidam triumphus foret.*

r *Pigh. l. Ty.*
rannif.
f *A. Gel. noct.*
Attic. 1, 2. c.

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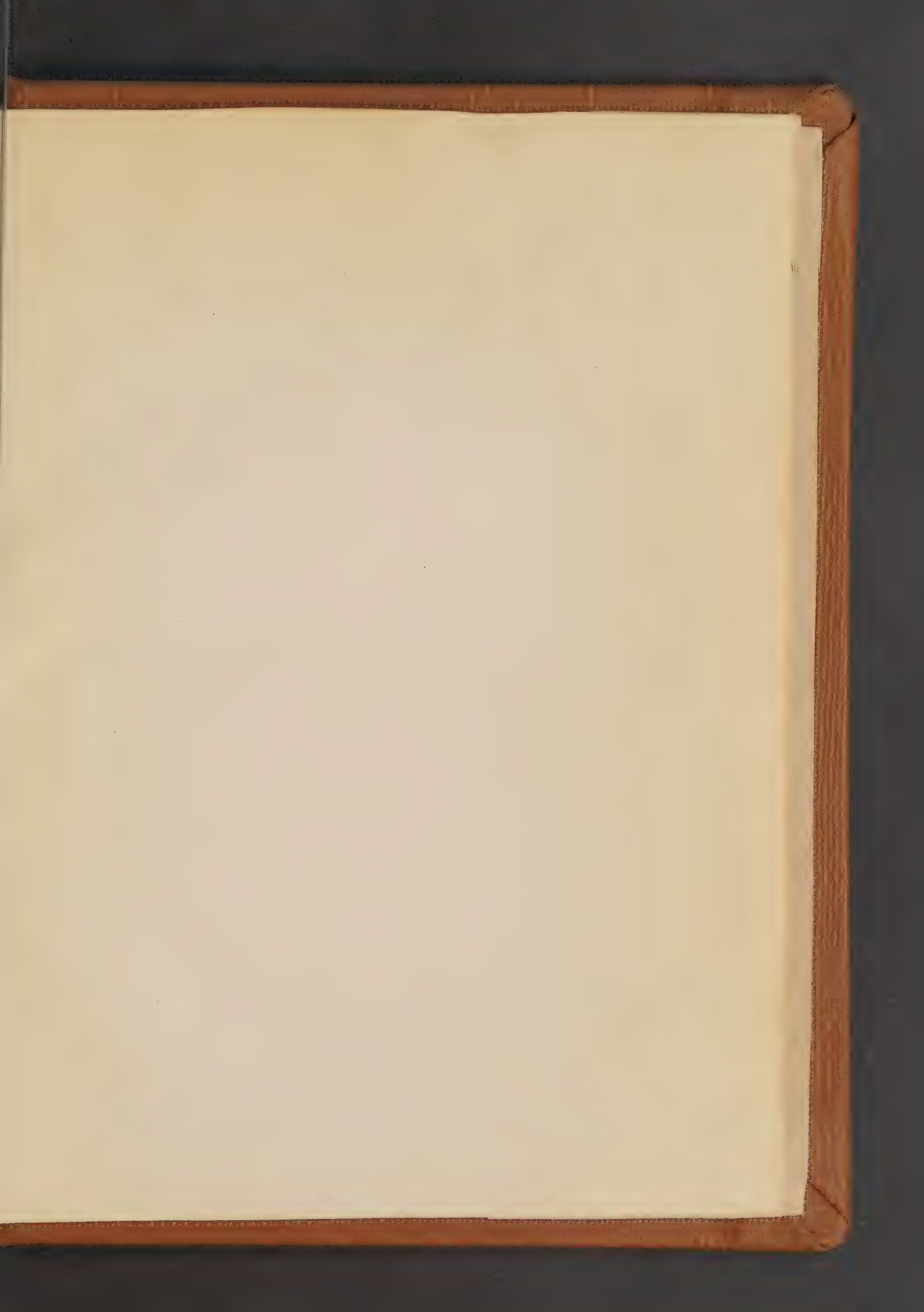
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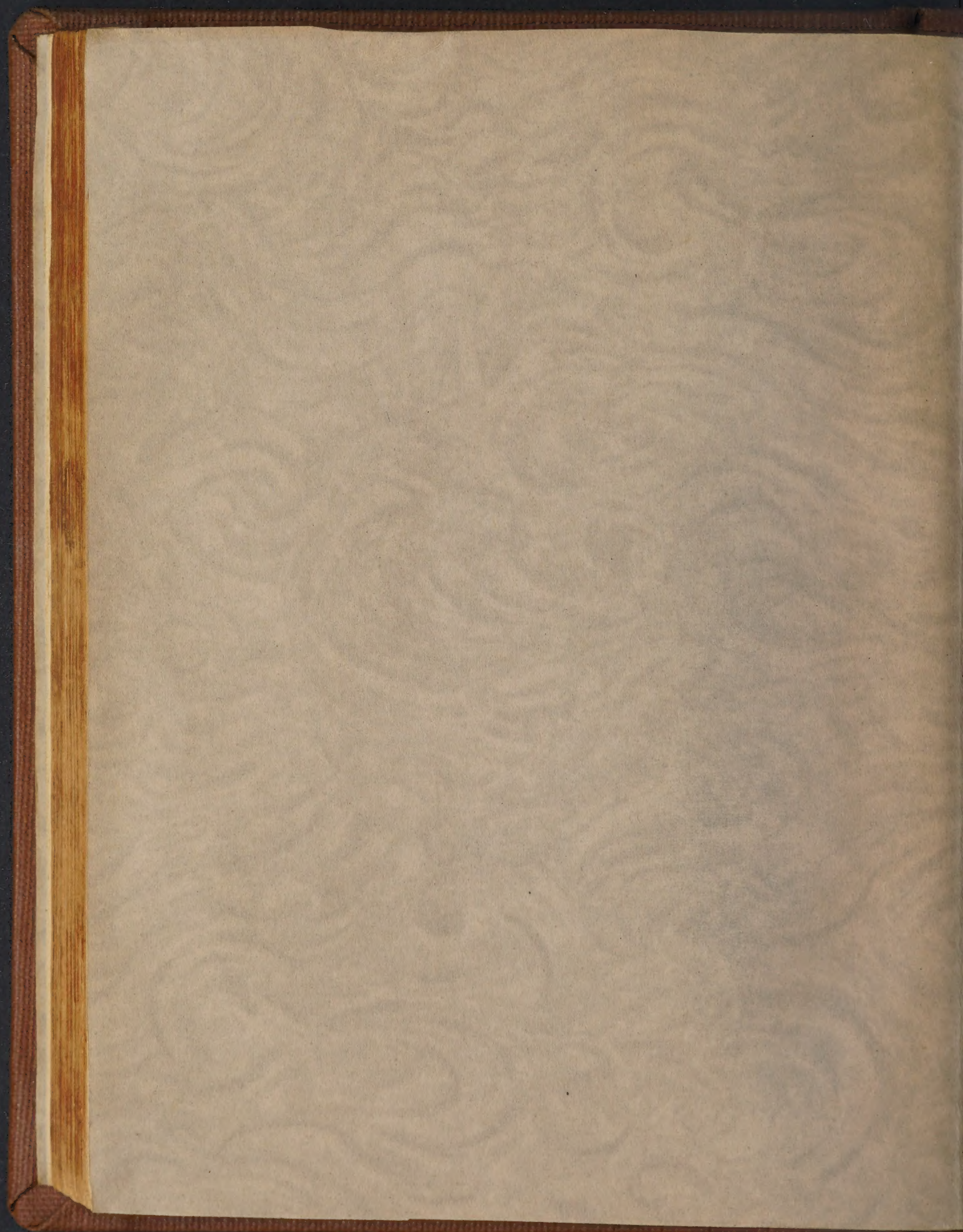
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